

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

In compliance with a resolution of the Senate,

With copies of Correspondence in relation to the Seizure of Slaves on board the brigs "Encomium" and "Enterprise."

FEBRUARY 14, 1837.

Read, and ordered to be printed.

To the Senate of the United States :

I herewith transmit to the Senate a report from the Secretary of State, with accompanying papers, embracing a copy of the correspondence requested by their resolution of the 7th instant, and such additional documents as were deemed necessary to a correct understanding of the whole subject.

ANDREW JACKSON.

WASHINGTON, 13th February, 1837.

DEPARTMENT OF STATE,

Washington, February 13, 1837.

The Secretary of State, to whom has been referred the resolution of the Senate, dated the 7th instant, requesting the President to communicate to that body, "if not inconsistent with the public interest, a copy of the correspondence with the Government of Great Britain, in relation to the outrage committed on our flag and the rights of our citizens, by the authorities of Bermuda and New Providence, in seizing the slaves on board of the brigs 'Encomium' and 'Enterprise,' engaged in the coasting trade, but which were forced by shipwreck and stress of weather into the ports of those islands," has the honor to submit to the President, according to his directions, the accompanying papers, being copies of the instructions from this Department to our diplomatic representatives in England, of communications from our diplomatic representatives to the British Government, and of the answers of his Britannic Majesty's ministers, and copies of other letters from the diplomatic representatives of the United States to the Department, relative to the seizures from the vessels "Encomium" and "Enterprise," and to the reclamation for another previous seizure of a like character.

JOHN FORSYTH.

To the PRESIDENT of the United States.

LIST OF ACCOMPANYING PAPERS.

Instructions from the Department of State to diplomatic representatives of the United States at London.

- Mr. Livingston to Mr. Van Buren, dated December 5, 1831.—Extracts.
 Chief Clerk to Mr. Vail, dated September 28, 1832.—Extract.
 Mr. Livingston to same, dated February 26, 1833.—Extract.
 Mr. Forsyth to same, dated August 2, 1834.—Copy.
 Same to same, dated March 28, 1835.—Copy.
 Same to Mr. Stevenson, dated May 19, 1836.—Extract.

Communications from diplomatic representatives of the United States at London to the Department of State U. S.

- Mr. Van Buren to Mr. Livingston, (with enclosure,) dated February 28, 1832.—Extract.
 Mr. Vail to same, dated July 15, 1832.—Extracts.
 Same to same, dated November 14, 1832.—Extract.
 Same to same, (with enclosures,) dated March 30, 1833.—Extract.
 Mr. Vail to Mr. Livingston, (with enclosures,) dated April 6, 1833.—Extract.
 Same to same, (with enclosure,) dated April 29, 1833.—Extract.
 Same to Mr. McLane, dated September 28, 1833.—Extract.
 Same to same, (with enclosure,) dated January 14, 1834.—Extracts.
 Mr. Vail to Mr. Forsyth, (with enclosure,) dated August 6, 1834.—Extract.
 Same to same, dated August 14, 1834.—Extract.
 Same to same, dated September 13, 1834.—Extract.
 Same to same, (with enclosures,) dated September 22, 1834.—Extract.
 Same to same, dated January 14, 1835.—Extract.
 Same to same, dated January 22, 1835.—Extract.
 Same to same, dated March 14, 1835.—Extract.
 Same to same, (with enclosure,) dated May 14, 1835.—Extract.
 Same to same, dated November 6, 1835.—Extract.
 Same to same, (with enclosure,) dated November 14, 1835.—Extract.
 Mr. Stevenson to same, dated July 14, 1836.—Extract.
 Same to same, dated July 29, 1836.—Extracts.
 Same to same, (with enclosure,) dated August 6, 1836.—Extract.
 Same to same, dated August 22, 1836.—Extract.
 Same to same, dated October 5, 1836.—Extract.
 Same to same, dated November 19, 1836.—Extract.
 Same to same, (with enclosure,) dated December 14, 1836.—Extract.

Extracts of a despatch from Mr. Livingston, Secretary of State, to Mr. Van Buren, Envoy Extraordinary and Minister Plenipotentiary to Great Britain, dated

DECEMBER 5, 1831.

SIR: I have the honor to transmit to you papers which will give you all the requisite information in relation to a proceeding of the Governor of the Bahama islands, which you are instructed to lay before the British ministry, with a strong expression of confidence that it will be disavowed by its Government.

A vessel going from one of our ports to another, with slaves, the property of American citizens, was wrecked on the Bahama banks. The slaves were, very fortunately, saved, and carried into New Providence, where they were libelled, as being forfeited under the British acts prohibiting the slave trade. The libel was dismissed by the court; but the Governor, of his own authority, declared them to be free, and refused to permit the owners to take them from the island.

This proceeding, so injurious to the rights of our citizens, is attempted to be justified under instructions given by the Government to the Executive of the island.

The arguments to show not only the injustice of this unfriendly proceeding, but its inconsistency with the acts of the Government in relation to this species of property, will naturally suggest themselves to you.

No statesman in England, zealous as some of them have been for the suppression of the African slave trade, has ventured to propose that other nations, by the laws of which slavery was permitted, should be forced to consent to a general emancipation. The English, then, acknowledge that slaves are property—they go further, they acknowledge the right to hold such property in their colonies. Here then, is property legally held by the citizens of a friendly country—of a species allowed to be held by their own subjects—which is forcibly taken, because the calamity of shipwreck has cast it on their shores, not on the shores which they have boasted that no slave could tread without being free, but in a colony where slavery is acknowledged, and where the master's right is protected by severe laws.

If the English statute had declared that property of this kind, when saved from a wreck, should be lost to the proprietor, we should, indeed, have been astonished at this return to the barbarous practice of ancient times, which cruelly took that which the tempests had spared. We should have in vain tried to reconcile it to the just and humane policy of modern nations; but we should, in that case, have been on our guard. When our vessels bilged on such inhospitable shores, we should, at greater risk, have endeavored to convey the cargo to some other place of refuge. Our underwriters would have calculated the increased danger of the cargo being forced into an English port. But the law which is made the authority for these proceedings is silent on the subject; the courts of the island have given it no such construction; and it is only the executive comment upon it that authorizes, as is said, the procedure.

But you may further urge that, admitting it to have been the intent of the act of Parliament that every slave cast by shipwreck on their islands, as well as those brought there by design, should be made free, it would

be too great a reflection on the justice of the nation to suppose that they intended this scheme of philanthropy should be executed at the expense of the unfortunate citizen of a friendly nation. If the humanity of the British nation will not be satisfied unless the slaves who are cast on the coasts of their colonies should become free, their justice will require that the property of the shipwrecked stranger shall not be taken to satisfy the demands of humanity without due compensation; and in this case our citizens will not require that any implied faith pledged to the slaves, by the act of the Governor, shall be violated; they will be content with a moderate valuation.

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On the whole, it is the President's desire that you should take every proper opportunity of urging the right of the claimants to indemnity. The magnitude of the sum makes it a matter of importance to the parties interested, and the principle involved is one of considerable delicacy, in relation to the species of property in question.

Extract of a despatch from the Chief Clerk of the Department of State to Mr. Vail, chargé d'affaires of the United States at London, dated

SEPTEMBER 28, 1832.

The parties interested in the property of the slaves wrecked upon the Bahama banks, and liberated by the Governor of the island of Providence, are exceedingly anxious to procure a decision of their claim upon the British Government, which they cannot doubt will be a favorable one. According to a late communication from you on this subject, the matter had been referred to the law officers of the Crown for their opinion upon it.

Extract of a despatch from Mr. Livingston to Mr. Vail, dated

FEBRUARY 26, 1833.

The case of the slaves wrecked on Abaco is an occurrence that most probably would not have happened had the application of this Government, ten years ago, [relative to the establishment of lights in the Bahama channel,] been attended to—a case which apparently gives as much trouble to the British Government as to ours—but which, however disagreeable the discussion may be to both, must be brought to a conclusion. The claimants are extremely urgent, and the case is too clear to admit of a doubt. The doctrine that would justify the liberation of our slaves is too dangerous to a large section of our country to be tolerated by us. You are therefore again instructed to urge an attention to our application, stating, as a reason for your pressing it, not only those which are contained in the original and subsequent instructions on the subject, but the extreme and just susceptibility of a very large portion of our country on the question which it involves, and that the President relies confidently, not only on the sense of justice of the British Government, but on their wish to remove every unfriendly feeling between the citizens and subjects of the two countries, for a satisfactory arrangement of this business.

Letter from Mr. Forsyth to Mr. Vail, dated

AUGUST 2, 1834.

SIR: The delay of the British Government to give any satisfactory answer to the representation which was made, so long ago as the year 1832, and repeatedly called to its attention since, on the subject of the slaves shipwrecked at Abaco, has been the cause of great regret and of some surprise to the President, and has given rise to serious and frequent complaints on the part of the individuals interested.

It is with painful feelings that the President has witnessed a similar disregard, upon the part of the authorities of New Providence, to the rights and interests of American citizens who have had the misfortune to be brought by shipwreck within their jurisdiction.

By the papers which are now transmitted to you, it will be seen that, in the month of February last, the American brig *Encomium*, Sheffield, master, bound from Charleston to New Orleans, with a cargo and passengers, among whom were 45 negro slaves, the property of American owners, who were also on board, was wrecked near Fish Key, Abaco, whence the passengers were carried to Nassau; that on their arrival the slaves were seized while on board the wreckers, by an officer of the customs, and taken to the police office, where they were set at liberty by the magistrate, although the consul of the United States, who was present, protested, on behalf of the owners, against the slaves being taken out of their possession; that, on the day following, the owners being about to embark for the United States, the consul wrote to the Lieutenant Governor, to inquire whether there was any impediment to their taking their slaves with them, and was answered by his secretary that, by so doing, they, as well as all others accessory, would be liable to be hanged.

By a communication subsequently made to the consul by the Lieutenant Governor, it appears that he acted in regard to the slaves, under an opinion, given in the year 1818, by Sir Christopher Robinson and Lord Gifford to the British Secretary of State, a copy of which, and of the Lieutenant Governor's communication, it is thought proper, in justice to him, to place with the other papers.

This transaction has produced a strong sensation in the United States, and particularly in the South, where it is viewed as a direct interference with their rights of property; rights which had their origin under British institutions, and have since been sanctioned by our own.

It cannot be denied that the circumstances of this case furnish abundant grounds for the dissatisfaction which it has produced. The slaves were in the quiet possession of their owners, on board the wreckers, when they arrived at Nassau, and, for all that appears to the contrary, would have so remained. They had preferred no claim to the authorities of the island to interpose for their discharge; nor had the owners made any call for such interposition to enforce their possession.

Indeed, there was not, on either side, any application to those authorities, and their interference was wholly voluntary and gratuitous. The legal rights of the owners of the slaves, according to the laws of their own country, were well known to the officers at Nassau; and, instead of respecting those rights, and seeking that they should remain undisturbed,

as might have been expected from the authorities of a friendly nation, those officers openly disregard them, and exerted themselves only to cause them to be violated by others. Having begun by forcibly dispossessing the owners, with whom the slaves were quietly remaining, they set them at liberty, and finally held out the punishment of death to deter the owners from taking them away. The law opinion under which the Lieutenant Governor professes to have acted, relates to the slave trade, —to *Africans* only, and cannot apply to slaves born in the United States, and belonging, for generations, to American citizens, under titles derived from British laws, prior to the separation of the two countries. That it should have been construed to include a description of persons who are clearly not embraced within its terms, would seem to indicate a disregard for interests of great importance to a large portion of the American people, which was not looked for on the part of a friendly nation; and, that such cause of complaint should a second time arise in the same quarter, is a circumstance which adds to the unfavorable impression that the transaction has produced.

It is the President's desire that you will take an early opportunity to bring this case before the British Government, and express his hope that, after fully weighing the whole subject, that Government will see that an early indemnification to the proprietors, in both cases, and the prevention of similar injuries in future, are due both to justice and to the friendly relations between the two countries.

I am, sir, respectfully,

Your obedient servant,

JOHN FORSYTH.

Mr. Forsyth to Mr. Vail.

DEPARTMENT OF STATE,

Washington, March 28, 1835.

SIR: I transmit to you, herewith, the copy of a letter dated on the 2d instant, just received at this Department from the consular commercial agent of the United States at Bermuda, communicating some particulars relative to the seizure and subsequent liberation of certain slaves, a part of the cargo of the American brig "Enterprise," Smith, master, bound from Alexandria, D. C. to Charleston, S. C.—which vessel had been obliged to put into the port of Hamilton, in distress, having experienced severe weather, and fallen short of provisions. It is the wish of the President that the case should be immediately brought to the attention of the British Government, and that redress be claimed for this gross outrage upon the rights and interests of American citizens. You will make use of this occasion, unless an answer has already been given to you respecting them, to call the attention of his Majesty's Government to the unreasonable delay which has taken place in deciding upon the questions of a similar character, presented in your previous notes.

I am, sir, your obedient servant,

JOHN FORSYTH.

Extract of a despatch from Mr. Forsyth to Mr. Stevenson, dated

MAY 19, 1836.

In the present state of our diplomatic relations with the Government of his Britannic Majesty, the most immediately pressing of the matters with which the United States legation at London is now charged, is the claim of certain American citizens against Great Britain for indemnification for a number of slaves, the cargoes of three vessels wrecked on British islands in the Atlantic, near this continent, who were carried into those islands, seized, and subsequently liberated by the local authorities; whereby the owners have experienced an almost total loss of their property. The instructions of this Department, and the correspondence that has already passed between the diplomatic representatives of the United States and the British Secretary of State for Foreign Affairs on the subject, which will be found on the files of the legation, to which you are referred, will put you fully in possession of all the facts relating to these cases, as well as of the views of the President in regard to them; and will also acquaint you with the progress made towards a definitive settlement of the affair. I shall therefore content myself with expressing to you the President's anxious wish that no time should be lost, and no exertion spared on your part, to effect an early adjustment of this long-pending claim; the delay which has already occurred having given him great dissatisfaction.

Extract of a letter from Mr. Van Buren to Mr. Livingston, dated

FEBRUARY 28, 1832.

I herewith transmit to you a copy of the note which I addressed, on the 25th instant, to Lord Palmerston, in behalf of the owners of the slaves wrecked in the brig "Comet," on a reef near the Bahama banks. You will perceive, on perusing it, that, availing myself of the latitude given me by my instructions respecting this claim, and taking into consideration the state of public feeling, and the extreme sensibility which prevails here on all subjects connected with slavery, I have deemed it proper to go farther into the matter than the suggestions in your communication seemed strictly to require. The arguments in favor of the claim also involved principles so interesting to a portion of our countrymen as to render it proper to give them the fullest consideration. I hope that my endeavors to have justice done to the claimants may meet the approbation of the President.

Mr. Van Buren to Lord Palmerston.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor, in obedience to instructions recently received from his Government, to submit to the right honorable Lord Viscount Palmerston, his Majesty's principal Secretary of State

for Foreign Affairs, the claims of several citizens of the United States upon his Majesty's Government, for injuries which they have sustained, in consequence of certain proceedings of the British colonial authorities of the Bahamas.

The prominent facts of the case, in regard to which there does not appear to be any dispute, are as follows :

Certain citizens of the United States, owners of one hundred and sixty-four native American slaves, being desirous of removing them, coastwise, from Alexandria, in the District of Columbia, to New Orleans, in the State of Louisiana, both places being within the jurisdiction of the United States, shipped them, for that purpose, in December, 1830, on board the American brig "Comet," Isaac Staples, master. The shipment and intended transfer of the said slaves being sanctioned by the laws of the United States, the vessel was regularly cleared at the custom-house, and provided with all the necessary papers to establish the legality of her voyage. Whilst proceeding thereon, the "Comet" was driven out of her course by adverse winds and tempestuous weather; and, on the night of the 3d January, grounded on an insulated reef, about ten miles to the windward of the island of Abaco, and was there totally lost. Before the vessel went to pieces, an island sloop, and some sail-boats came to her assistance, and aided in saving the lives of the persons on board, by landing them on a small key called Spanish Key, situated between the reef and the island, at the distance of about three or four miles from the one and five or six from the other. This key, though so denominated, is, it appears, but a bare and desert rock, furnishing neither vegetation nor fresh water for the use of man, and separated from the island by a channel. To obtain the means of subsistence, and fit out the vessel for the accommodation of so great a number of persons, they proceeded to Green Turtle Key; from whence it was Captain Staples's intention to sail, in the wrecking-vessel, for Key West, or some other port of the United States, where he might have found the means of proceeding to his original destination. But failing to prevail upon the wreckers to afford him the use of their vessel, he was obliged to yield to their terms, and to sail in those vessels, with all the persons rescued from the wreck, to the port of Nassau, in the island of New Providence, where the wreckers insisted upon carrying them, and where they arrived on the 11th January, 1831. The landing of the slaves from the wreck on Spanish Key, their transfer to Green Turtle Key, and final removal to the port of Nassau, appear to have been acts of necessity, arising from circumstances of misfortune, over which Captain Staples had no control. On his arrival at Nassau, he took every proper step to prevent the landing of the slaves, and immediately purchased, for four thousand dollars, a brig, which he proceeded to fit out, with all possible despatch, for the conveyance of the slaves to New Orleans; but before this could be accomplished, a notice was served upon him by the custom-house officers of Nassau, that the slaves would be detained until the opinion of the Governor and crown-lawyers of the colony could be obtained, as to their liability to seizure under the British statutes concerning the abolition of the slave trade; and on the 15th of January, the fourth day after their arrival, all the slaves then remaining on board the wrecking-vessels, together with fifteen who,

notwithstanding the precautions taken to prevent it, had made their escape by swimming to the shore, were seized by the custom-house officers for a violation of the statute above referred to; and those remaining on board of the vessel were forcibly taken from the possession and custody of Captain Staples, and landed at Nassau.

Proceedings were forthwith instituted by the officer who had made the seizure, in the instance court of vice admiralty for the Bahamas, against the slaves referred to, for an alleged violation of the act of Parliament (5 Geo. IV. chap. 113) "to amend and consolidate the laws for the abolition of the slave trade." This harsh attempt to convert involuntary acts of Captain Staples, growing out of accidents beyond human control, and indispensably necessary to the preservation of human lives, into infractions of a penal statute meriting forfeiture, was, after a full hearing of the parties, very properly condemned by the court, and the libel or information dismissed. The illegality of the seizure having thus been judicially determined, Captain Staples, after complying with the requirements of the decree in regard to the costs of suit, trusted that no further difficulty would be interposed to prevent the removal of the slaves to the port of their original destination. The undersigned regrets to say that this reasonable expectation was not realized. It appears that the colonial authorities, notwithstanding the decision referred to, took upon themselves to release the slaves from all the relations in which they had stood with regard to their owners, and refused to surrender them to Captain Staples; notwithstanding, also, the repeated memorials addressed to them by him, and by the consular agent of the United States in the Bahamas.

In taking this step, the Governor acted, it would seem, in conformity with an opinion of the judge of the instance court, which did not form a part of the original decree, but in which he declared that the slaves *having been once landed*, there was, in his opinion, no law by which they could legally be dealt with as slaves in that colony, or which would authorize the Governor to deliver them up, without their consent, to the claimants, for the purpose of being conveyed to another country, to be so dealt with; and that, therefore, they must, as a necessary consequence, be considered as free persons, and not as slaves illegally imported.

Of the whole number of slaves, one hundred and forty-six were insured by three insurance offices in the city of New Orleans for \$71,330. The assured having been thus deprived of their property, made their abandonment to the several offices, under the claim in the policy against the risk of "detainment by foreign Powers," and on the usual proof of loss and interest, received the amount of their several policies. The underwriters, namely: The Louisiana State Insurance Company, The Mississippi Marine and Fire Insurance Company, The Merchants' Insurance Company of New Orleans, together with Colonel Charles C. Tutt, navy agent of the United States at Pensacola, in the Territory of Florida, and Sylvanus W. Mudd, owners of the slaves which were not insured, sent an agent to Nassau, with instructions to demand the slaves from the authorities of that place, and, if delivered up, to send them to New Orleans; and in case of refusal, to have all the necessary documents duly authenticated, and submit them to the Government of the United States. The manner in which these duties were performed by the agent,

Mr. Morse, appears from his report, a copy of which the undersigned has the honor of laying before Lord Palmerston.

It appears that his excellency Major General J. C. Smith, Governor of his Majesty's possessions in the Bahamas, referred the claimants to the Secretary of State for the colonies, with an intimation that the whole subject had been fully reported to that department of his Majesty's Government, and suggestions authorizing the inference that, in the steps which had been taken in the premises, his excellency had acted under the orders of his Government.

It is upon the circumstances of which the preceding statement furnishes a general outline, and which are more minutely described in the accompanying papers, to which the undersigned respectfully invites Lord Palmerston's early attention, that the present claimants apply to the justice and equity of his Majesty's Government, for indemnity for the heavy losses which they have sustained. In the few observations which the undersigned thinks it proper to submit in support of this claim, he does not deem it necessary to say any thing in confirmation of the decision of the instance court upon the question of forfeiture, fully confident, as he cannot but feel, that the unfounded pretences set up by the officers who made the seizure, and which were so properly condemned by the court, will receive no countenance from his Majesty's Government.

The Governor of the Bahamas, in severing the connexion which existed between the slaves in question and their masters, acted, it would seem, in conformity to the *ex parte* opinion already referred to, delivered by the judge of the instance court, which declared that the adoption of that course was the unavoidable consequence of the actual landing of the slaves in the colony, a consequence of the unfairness of which, as it respected the claimants, he was not insensible, but which he did not think it was in the power of the Governor to avoid.

By the *actual landing* here spoken of, the undersigned is bound to understand Judge Mannings as referring to their landing at Nassau, in consequence of the unlawful seizure of them by the custom-house officers of that place, by which landing they had been brought within the actual control and placed under the protection of the local authorities; for the undersigned cannot, for a moment, suppose that the idea intended to be conveyed was, that the mere fact of landing the slaves upon a bare rock on the Bahama coast, to save them from immediate death, or even touching with them at another island for the sole purpose of saving them from starvation or loss in the small-crafts which had come to their rescue, justified; or that any principle of humanity or official duty required the custom-house officers to follow the slaves in question, circumstanced as they were, and take them from the vessels with a view to their emancipation. Having properly decided that the landing of the slaves from the "Comet," by Captain Staples, did not constitute the *importation* of them into the colony, denounced by the act, and to which the penalty of forfeiture is attached, because it was not a case within its spirit and policy, it would seem to follow as a necessary consequence that no forfeiture or disability could be incurred by their immediate *re-shipment* with a view to the prosecution of their voyage. Understanding the opinion in this, which, to the undersigned, appears to be its only admissible light, the necessity of regarding the slaves as freemen is re-

ferred, not to the means previously used to rescue them from the perils of the sea, but to the acts of the authorities of the island in voluntarily assuming the possession and protection of them, by which acts those authorities, according to the idea of the judge, put it out of their power to allow the compulsory return of the slaves to the subjection of their masters. Admitting, therefore, that the judge of the instance court was correct in his position, the important fact still remains, that this inability and the consequent loss sustained by the claimants, arose altogether from the confessedly illegal acts of the custom-house officers of the port of Nassau in making the seizure and in effecting the landing of the slaves at that place, against the wishes and in defiance of the remonstrances of Captain Staples and the consular agent of the United States.

The liability of his Majesty's Government to redress the injury which, according to this view of the subject, the claimants have received, appears to the undersigned too clear to be disputed; and, sensible that the case of the claimants might, so far as the question of strict right is involved, be safely allowed to rest on this sole ground, it is with extreme reluctance that the undersigned feels it his duty to extend this communication, already protracted beyond his wishes. There are, however, considerations arising from the ground which has been taken in this case, and from the consequences which might ensue if the principle assumed should be carried to its legitimate results, so calculated to affect the interests and excite the deep sensibility of a large and highly respectable portion of the citizens of the United States, that the undersigned is constrained to take a brief notice of the opinions upon which the colonial authorities appear to have acted.

The participation of the United States in the desire entertained by Great Britain for the final annihilation of the slave trade is known to the world, as is also their willingness to apply to the great end, and to the mitigation of the evils of existing slavery, all the means at their disposal which are consistent with their internal condition and the nature of their institutions. But, zealous and active as they have been in common with the Government of Great Britain for the early and effectual suppression of that infamous traffic, they have not ventured, nor has any statesman of either country ventured to propose the slightest interference with the rights and duties of master and slave in other States, by the law of which domestic slavery was permitted to exist. On the contrary, the Government of the United States, respecting the actual and unavoidable condition of things at home, while it most sedulously and rigorously guards against the further introduction of slaves, protects, at the same time, by reasonable laws, the rights of the owners of that species of property in the States where it exists, and permits its transfer, coastwise, from one of those States to another, under suitable restrictions, to prevent the fraudulent introduction of foreign slaves. In this respect their course is similar to that of the British Government in regard to those portions of his Majesty's dominions where slavery is allowed; and the case now presented to its consideration is, the undersigned is happy to be able to say, not in any way connected with the policy of the two countries in regard to the abolition of the African slave trade.

The undersigned is quite confident that Lord Palmerston will not find it difficult to satisfy himself that the opinion of the judge of the instance

court in which the inability of the colonial authorities to afford the required redress is set forth, was not warranted by the facts upon which it was founded. In that opinion it is not pretended that the inability of the Government to surrender the slaves to their owners arose from any of the provisions of the act of 5 Geo. IV. c. 113, for the abolition of the slave trade; nor could that position have been maintained with any show of reason.

It is most evident to the undersigned that cases like the present are neither within the policy of that act, nor embraced in the intentions of its framers; and it was, doubtless, upon that principle that the claim of forfeiture was rejected by the court. That intention obviously was to carry into effect the avowed policy of his Majesty's Government, by forbidding his subjects, not only all direct participation in that trade, but also all assistance and facilities to those by whom it was still prosecuted, and to restrain and regulate the transfer of slaves held in lawful bondage from one portion of his Majesty's possessions to another. The case of slaves, born and held as such under the laws of a foreign friendly nation, cast by shipwreck upon the coasts of those possessions under circumstances like the present, was not in the contemplation of the Legislature, and cannot, therefore, under a just, liberal, and legal construction of that act, be viewed as embraced in its provisions. The propriety of this view of the act is sustained by the general character and scope of its provisions, and more particularly by the 23d section. By that section it is provided that, "in case any person or persons, *illegally held or detained in slavery*, shall hereafter, *by shipwreck*, or otherwise, be *cast upon*, or shall *escape to*, or *arrive at*, any island or colony, &c. under the dominion, or in the possession of his Majesty, it shall and may be lawful for his Majesty, his heirs, &c., or for any such officer, civil or military, as aforesaid, to deal with, protect, and provide for any such person or persons, in such and in the same manner as is hereinbefore directed with respect to persons condemned as prize of war, or as forfeited under this act." This section could surely not have been deemed necessary, if the framers of the act had supposed that the effects of its provisions would be to produce the same result in all cases of slaves cast away upon such islands, whatever might have been their previous condition in respect to the legality of their detention.

The undersigned presumes, therefore, that it has been by the application of the rule established upon the subject in Great Britain, to the Bahamas, that the judge of the instance court has arrived at his conclusions in the case under consideration. If such is the fact, it appears to the undersigned, with all respect to that judicial functionary, to be only necessary to state the rule and the circumstances upon which it rests here, to show the fallacy of its application to the Bahamas. Great Britain having long since relieved herself from slavery, it was contended that the air of England had become too pure for a slave to breathe in, and her courts of law, upwards of half a century since, confirmed that assumption by effectually restraining the exercise of any pre-existing rights of ownership over persons brought within their jurisdiction. This principle in her jurisprudence has been undeviatingly persevered in—it has become known to all the world—and nations in whose dominions slavery is tolerated, have been able to conform to it in their intercourse with her.

Can it be that this principle of common law is applicable to a colony where, by the law of the place, negroes and their descendants, who have not been emancipated by their owners, are slaves, and saleable as other property, where the master's rights are amply protected by particular laws, where negroes may not only be dealt with as slaves at home, but may be removed, coastwise, from one part of the island to another, and with permission, from island to island, where the owners may at their pleasure employ them on the high seas, in navigation or fishery, or place them in the naval or military service of his Majesty, and even take a particular class of them, by sea, to any place whatever, without, in any case, forfeiting their rights as owners?

The entire insufficiency of the reasons which might justify a refusal to comply with the request of the claimants, if the transaction in question had taken place in England, is, as applied to a case arising in the Bahamas, too manifest, in the opinion of the undersigned, to be disputed. In the former supposition, the claimants might be truly informed that they sought the exercise in their behalf of an authority alike at variance with the public sentiment and the established law of the land, and which no British subject could invoke. At Nassau, no such ground could be taken. All that was asked of the local authorities was an extension to the claimants of the same protection in regard to their property which would have been given to British subjects belonging to those parts of the British possessions abroad where slavery is allowed, in a case where, like the present, the pre-existing rights of the owner had not been forfeited by an illegal introduction of the slaves into the Bahamas.

But we are not left to discussion and speculation upon this point. The original establishment of the principle in England was founded on the declared assumption that the law of the colonies could have no bearing upon the question in England, so far as regarded the personal rights of the slave whilst in England; and it has been solemnly decided by the high court of admiralty in this country, in case of the "slave Grace," (2 Haggard's Admiralty Reports, p. 94,) that the rule established in England has no application to the colonies; that though a slave coming to England from the colonies is released by the law of the land from the control of his master, while he continues in the country; and cannot be sent out of it without his consent, yet he continues virtually a slave, and on his return to the place of his birth and servitude, the right to exercise the former control over him revives in his master.

The undersigned is not otherwise advised of the orders which his Majesty's Government may have given to the Governor of the Bahamas, than may be inferred from the opinion of counsel contained in Mr. Morse's statement. As this communication, in consequence of the interesting considerations involved in its subject, has already been extended farther than the undersigned could have wished, he will confine himself to but one or two general observations in regard to the applicability of the above-mentioned opinion to the present case. It will be seen that the circumstance by which it was produced was the shipwreck on the coast of a British settlement, at the Cape of Good Hope, of a Portuguese slave ship, on its passage from the coast of Africa to Brazil; and the point submitted was the manner in which Africans who, on their transportation from Africa to Brazil, as slaves, were either abandoned

or cast away on the shores of a British colony, should be dealt with by the colonial authorities according to acts of Parliament for the abolition of the slave trade, and the degree of assistance which those authorities might, under any circumstances, give the Portuguese, by whose laws that inhuman traffic was still permitted, to enable them to carry it on. In answer to a question thus propounded, his Majesty's law officers said, that any act on the part of those authorities beyond what was necessary to save the lives of the slaves from the dangers of the sea, and which had for its object to restore them to those who were engaged in the slave trade, would be affording facilities to that trade, contrary to the spirit and intention of the act by which it was severely denounced, and the declared object of which was the entire suppression of that trade. The undersigned cannot for a moment believe that it was within the contemplation either of those who framed the act, or of those by whom it was thus expounded, to embrace persons born in servitude in the territories of a friendly nation equally zealous with Great Britain in putting an end to the slave trade, equally anxious to mitigate the evils of slavery where its existence is found unavoidable, but which has felt itself also equally bound to protect by just regulations rights which had been acquired under the sanction of their laws before the African slave trade was prohibited by them. Viewing the subject in this light, the undersigned feels the strongest confidence in expressing, as he has been instructed to do, the just expectation of the President that his Majesty's Government will order the slaves in question to be given up to the claimants, and reasonable indemnity to be made to the latter for the damages caused by the detention of their property, and by the loss of such of the slaves as may not now be found; a request which Lord Palmerston will readily admit derives a claim to the most favorable consideration from the fact, which is of undoubted authority, that it is in conformity with a course which the Government of the United States, notwithstanding its highly penal statutes against the voluntary introduction of foreign slaves within its territories, and denouncing all participation by American citizens in the African slave trade, has, nevertheless, pursued with regard to slaves belonging to British subjects, who, being lawfully employed in navigation, have been rescued from the perils of the sea by the intervention of citizens of the United States.

Should it, however, be decided that his Majesty's Government is unable to comply with this request, in consequence of the actual landing of the slaves on the island of New Providence, through the illegal seizure of them by the custom-house officers, and of the application to their case of the general principles of the English law; or should it be declared that it was the intent of the act of Parliament, through motives of humanity, to give freedom to every slave landing on the coast of a British colony, whether cast upon it by shipwreck or brought thither by design, and without reference to his previous condition or the manner in which the owner's interest in him was acquired, the undersigned is persuaded that the justice of the British Government will take care that the property of the citizens of a friendly nation, thrown by shipwreck on their coasts, shall not, under circumstances like those of the present case, be sacrificed by any misconstrued application of British laws, or by any indulgence of their own feelings of philanthropy; but that all suitable

compensation will be made to such individuals for the property taken or detained from them.

The claimants will not require that any implied faith pledged to the slaves by the act of the Governor of the Bahamas shall be violated : they will, therefore, be content with a moderate valuation, much less than that put upon the slaves by the Legislative Assembly of New Providence. Among the papers herewith transmitted will be found an estimate of the value which the claimants consent shall be put upon them, and which, with a reasonable remuneration of expenses, the undersigned is authorized to accept.

The undersigned gladly avails himself of this occasion to renew to Lord Palmerston the assurance of his highest respect and consideration.

M. VAN BUREN.

STRATFORD PLACE, *February 25, 1832.*

Extracts of a letter from Mr. Vail to Mr. Livingston, dated

JULY 15, 1832.

In fulfilment of the wishes, intimated in your despatch No. 2, of the 30th of May, I sought, and on the 14th instant obtained, an interview with Lord Palmerston, in the course of which I had an opportunity fully to lay before him your views in relation to the subjects referred to in that despatch ; and also to call his attention to other topics, which had before given rise to correspondence between him and the legation.

* * * * *

I then took occasion to remind his lordship of Mr. Van Buren's note to him of the 25th of February last, on the subject of the claim of the owners of a number of slaves shipwrecked on the island of Abaco, in the brig Comet, and seized at Nassau by the colonial authorities of the Bahamas. He, in answer, confirmed the information which I had, the day before, received from Sir George Shee, one of the under Secretaries of State for Foreign Affairs, to whom the subject had been referred, that the case had been sent to the law officers of the Crown, for their opinion upon points of law which had arisen from it, and the promise also made me by Sir George to inquire what progress had been made by that branch of the Government, and to urge its further advance towards a termination.

Extract of a letter from Mr. Vail to Mr. Livingston, dated

NOVEMBER 14, 1832.

With regard to the claim of the owners of slaves wrecked in the Bahamas, in the brig Comet, to which, also, allusion is made in the despatch above referred to, I called yesterday at the Foreign Office, to inquire the stage at which the promised investigation of that claim had arrived. I regret to say that the case still remains before the law offi-

cers of the Crown, who have not yet reported upon it. The Under Secretary of State, who has charge of the subject, has promised me to inquire into the cause of the delay, and to urge the immediate action of the law department upon it.

Extract of a letter from Mr. Vail to Mr. Livingston, dated

MARCH 30, 1833.

I have seldom omitted to avail myself of the opportunities afforded me by incidentally meeting with Lord Palmerston, to call his attention to the various subjects remaining unadjusted between the two Governments in which I thought that my further agency might be usefully employed. Among these, the claim of the owners of the slaves shipwrecked in 1830, on the island of Abaco, in the brig "Comet," has often been the subject of conversation, both with Lord Palmerston and with Sir George Shee, the Under Secretary, more especially charged to inquire into the subject; but, so far, without any satisfactory result. More than a year having now elapsed since the claim was first presented, in Mr. Van Buren's note of the 25th February, 1832, which still remains unanswered, I thought it time that a fresh appeal, bearing an official character, should be made; and, a few days ago, informed Lord Palmerston of my intention of addressing him a communication upon the subject. He unhesitatingly promised that he would make use of it to hasten the progress of the investigation which he had ordered to be made of the merits of the claim; and I accordingly addressed to him, on the 25th instant, the note of which I have the honor herewith to transmit to you a copy.

Mr. Vail to Lord Palmerston.

The undersigned, chargé d'affaires of the United States of America near the Government of his Britannic Majesty, has the honor, agreeably to instructions at various times received from his own Government, to call the attention of the right honorable Viscount Palmerston, his Majesty's principal Secretary of State for Foreign Affairs, to a note, still remaining unanswered, which was addressed to his lordship on the 25th of February of last year, by Mr. Van Buren, late envoy extraordinary and minister plenipotentiary of the United States at the British Court, setting forth the claim of sundry American citizens upon his Majesty's Government, for the value of a number of slaves shipwrecked in 1830, while proceeding in the brig "Comet," from Alexandria to New Orleans, on the island of Abaco, and seized by the colonial authorities of the Bahamas, for an alleged violation of the laws prohibiting the importation of slaves into his Majesty's colonies.

In the note to which reference is made above, Mr. Van Buren so fully presented to the view of his Majesty's Government the considerations of undoubted justice which had induced that of the United States to interpose in behalf of the claimants, that the undersigned deems it

unnecessary to add any further remarks upon the merits of the claim : he will content himself, for the present, with repeating what he has, on several occasions, had the honor verbally to state to Lord Palmerston, that the President looks with undiminished solicitude to a decision which he believes cannot be otherwise than favorable to the parties interested, in the hope that the enlightened justice of his Majesty's Government will not allow the great loss incurred by the claimants, in consequence of the detention of their property, to be aggravated by any unnecessary protraction of the delay which has already occurred in the adjustment of their claim.

The undersigned, relying upon the promise made to him by Lord Palmerston that he would hasten the settlement of the claim referred to, avails himself of this opportunity to offer to his lordship the renewed assurance of his most distinguished consideration.

A. VAIL.

304 REGENT STREET,
25th March, 1833.

Extract of a letter from Mr. Vail to the Secretary of State, dated

APRIL 6, 1833.

You will perceive, by the enclosed copy of a note which, on the 25th of last month, I addressed to Lord Palmerston, that I had anticipated the wishes of your Department with regard to the claim for the slaves shipwrecked in the "Comet" on the rocks of Abaco. The long delay which had attended the examination of the case by the crown lawyers, to whom it had been referred, and the belief that more than sufficient time had been afforded them for the purpose, had induced me to repeat, in writing, the verbal applications, several times made by me, for a settlement of the claim. The answer, of which a copy is likewise enclosed, was received at the moment I was about sending in another communication, prepared in obedience to your despatch No. 10, which had come to hand in the mean time. Still, as that despatch contained some new considerations in behalf of the claim, which, I thought, might be urged with advantage, I prepared and sent in another note, dated the 4th instant, also herewith communicated, which I hope will have the effect of quickening the action of the legal advisers of the Crown. It was my wish, in delivering the last-mentioned note, to have explained these circumstances to Lord Palmerston in a personal interview; but, being unable to do so, in consequence of an illness which confined him to his chamber, I had a conversation with the under Secretary of State, whom I endeavored to impress with a sense of the desire of the President that this matter should be speedily arranged. He said that, although the justice of the claim seemed to admit of no doubt, yet, from the difficulty of reconciling the principle it involved with existing laws, it derived some complexity, which had been a subject of much embarrassment to the crown lawyers; that the King's advocate, to whom the case had been sent, fearful of assuming the responsibility of deciding by himself, had called the Attor-

ney General to his assistance, and that both were engaged in preparing a report, upon which the ministers would act in finally deciding upon the merits of the claim.

Lord Palmerston to Mr. Vail.

The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of a note which was addressed to him on the 25th instant by Mr. Vail, chargé d'affaires of the United States of America at this court, upon the subject of the claim set up by sundry American citizens upon his Majesty's Government for the value of a number of slaves shipwrecked in 1830, while proceeding, in the brig "Comet," from Alexandria to New Orleans, on the island of Abaco, and seized by the colonial authorities of the Bahamas, for an alleged violation of the laws prohibiting the importation of slaves in his Majesty's colonies.

The undersigned has the honor to state, in reply, that the subject is at present under the consideration of the law officers of the Crown, to whom it has been referred by his Majesty's Government; and, so soon as a report shall have been received from those officers, the undersigned will have the honor to communicate to Mr. Vail the decision which his Majesty's Government may come to upon the question.

The undersigned avails himself of this opportunity to renew to Mr. Vail the assurances of his distinguished consideration.

PALMERSTON.

FOREIGN OFFICE,
March 30, 1833.

Mr. Vail to Lord Palmerston.

The undersigned, chargé d'affaires of the United States of America, had the honor to receive, yesterday, a note which the right honorable Lord Viscount Palmerston, his Majesty's principal Secretary of State for Foreign Affairs, addressed to him on the 30th of last month, stating, in answer to a communication from the undersigned, that the claim presented in behalf of citizens of the United States for a number of slaves seized by the colonial authorities of the Bahamas, was under the consideration of the law officers of the Crown; and that, on the receipt of their report, the decision which his Majesty's Government may come to upon that claim would be communicated to the undersigned.

The undersigned flatters himself that he perceives, in Lord Palmerston's note, the prospect of an early adjustment of this claim, and will hasten to communicate the gratifying information to his Government. Since, however, he last had the honor of addressing his lordship upon the subject, and before the note above referred to came to hand, he received from the Secretary of State of the United States special in-

structions, which make it his duty to avail himself of this communication, instead of one which, with the same view, he was on the point of forwarding to Lord Palmerston when his lordship's note of the 30th ultimo was received, to state some of the grounds on which the President had felt himself obliged to direct a fresh application to the British Government for the speedy adjustment of the claim in question.

The undersigned having, from time to time, acquainted his Government with the import of the conversations he had with Lord Palmerston on this subject, the President, aware of the difficulties and delays which, owing to the delicate nature of some of the considerations it involved, might attend the investigation of the case, had refrained from urging its immediate adjustment, confiding in the justice of his Majesty's Government for ultimate redress to the parties interested. These persons, however, whose losses, already so heavy in the origin, are daily increased by every fresh delay, which deprives them of the use of their property, have become so urgent in their representations that the President, impressed with the indisputable justice of their demands, and of the claim they have to the interposition of their Government, is compelled to renew the application which has now, for more than a year, been under the consideration of that of his Britannic Majesty.

Lord Palmerston is too familiar with the circumstances of the case to make it necessary for the undersigned to recapitulate them in this place; nor will he take up his lordship's time in reverting to the arguments and proofs by which Mr. Van Buren, in his note of the 25th February, 1832, so clearly established the right of the claimants to the restoration of their property, or to full indemnity for the loss they may ultimately sustain in consequence of the seizure of it. But there are other considerations, not before particularly dwelt upon, which the undersigned begs leave now to submit, in compliance with the orders of the President, and which, as involving questions of international policy and good neighborhood, more forcibly address themselves to the attention of his Majesty's Government. Lord Palmerston is aware of the existence of a large slave population in the United States, and will easily conceive that the necessary and frequent removals of portions of it from one section of the country to another, render it of the utmost importance that the safe and easy mode of conveyance afforded for that purpose by the coastwise navigation, should not be exposed to such interruptions as that which forms the subject of this communication.

It never can be the wish or interest of the owners of this species of property to expose themselves to losses, and their Government to unpleasant discussions, by trusting it beyond the jurisdiction or protection of the United States; but a great number of the description of persons referred to, who emigrate to the Southern sections of the Union, have necessarily to pass through the Bahama channel; and so long as, chiefly from the present want of the indispensable aids to navigation, this dangerous thoroughfare remains unsafe, as it now is, it may become the unpleasant duty of the American Government to address to that of Great Britain other representations like that now under consideration. Were it for this cause alone, the undersigned feels confident that Lord Palmerston will agree with him that its recurrence had better, in future, be avoided, if possible. There are, besides, other causes, more peculiarly,

but more vitally also, affecting the United States, from which the subject of this reclamation derives an importance reaching far beyond the individual interests concerned in it. Should the question which grows out of this claim, contrary to the confident expectation of the President, be decided against the claimants, it would go to establish a doctrine authorizing the liberation of the American slave whom unavoidable accident may have thrown out of the jurisdiction of the United States, too dangerous to a large section of the country to be tolerated by its Government. The extreme, but just, sensibility of that portion of the Union which would be affected by the admission of such a principle, imparts to this consideration an importance so deeply felt by the President, that he has caused the undersigned to be especially instructed to state to Lord Palmerston that he places the fullest reliance, not only upon the sense of enlightened justice of the British Government, but also upon its desire to remove every cause of unfriendly feelings between the citizens and subjects of the two countries, for such a disposition of the subject of this communication as will preclude all possibility of future difference from such a source.

In thus again calling up a subject which had so recently procured him the honor of a communication with Lord Palmerston, the undersigned has, by order of his Government, endeavored to place before his lordship considerations which, he feels confident, will be allowed to occupy their appropriate place among the motives which will determine the decision of his Majesty's ministers.

That that decision will be favorable to the claimants, he cannot permit himself to doubt; nor is he more disposed to believe that, fully appreciating the benefits which an early adjustment would confer upon the parties, the British Government will suffer any unnecessary delay to aggravate the injury already inflicted upon them by the proceedings of the colonial agents of Great Britain.

The undersigned avails himself of this opportunity to offer to Lord Palmerston the renewed assurance of his highest consideration.

A. VAIL.

304 REGENT STREET,
April 4, 1833.

Extract of a letter from Mr. Vail to Mr. Livingston, dated

APRIL 29, 1833.

I likewise communicate to you the copy of a note which I received on the 24th instant from Lord Palmerston, acknowledging the receipt of that which, agreeably to the instructions contained in your despatch No. 10, I addressed to him on the 4th, respecting the claim arising out of the detention of the slaves shipwrecked in the brig "Comet" on the island of Abaco. I cannot but indulge the hope that the agency which Lord Palmerston promises to employ in accelerating the action of the law department will bring that subject of difference to a speedy termination.

Lord Palmerston to Mr. Vail.

The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, has had the honor to receive the note which was addressed to him on the 4th instant by Mr. Vail, chargé d'affaires of the United States of America, upon the subject of certain American negroes, detained at Nassau, in New Providence; and, in reply, he begs to state that this further representation on the part of Mr. Vail, has been transmitted to the King's law officers, with reference to the papers previously transmitted to them upon the same subject; and they have been pressed by the undersigned to give in their immediate report upon the case, in order that the undersigned may be enabled to return an answer upon the whole question to Mr. Vail without further delay.

The undersigned begs to renew to Mr. Vail the assurances of his distinguished consideration.

PALMERSTON.

FOREIGN OFFICE, *April 24, 1833.**Extract of a despatch from Mr. Vail to Mr. McLane, dated*

SEPTEMBER 28, 1833.

I have again called the attention of Lord Palmerston to the former representations of this legation against the detention, by the British colonial authorities, of the slaves shipwrecked in the Bahamas on board of the brig "Comet." This perplexing subject has again and again been made one of verbal as well as written communications on my part, which do not seem to have hitherto had any effect in hastening the labors of the crown lawyers, whose tardy action upon it is to be made a preliminary to a final decision on its merits. Lord Palmerston, still pleading the delicate nature of the question, and the intricacy of the case, has again promised me that he would exert himself to bring it to a close.

Extracts of a letter from Mr. Vail to Mr. McLane, dated

JANUARY 14, 1834.

I had, on the 10th instant, with Lord Palmerston, an interview, which I had sought for the purpose of calling his attention to several applications and representations of mine, some of which, after a long lapse of time, still remained unanswered, &c. * * * * *

I then placed in the hands of Lord Palmerston the memorandum, of which the enclosed is a copy, of the notes and representations to which I desired that answers might be given; remarking upon the merits of each case, particularly the claim of the owners of slaves shipwrecked in the brig "Comet," which has now been near two years under consideration, notwithstanding my repeated calls, both written and verbal, for a de-

cision; and the claim of, &c. In both cases, he said he was still awaiting the reports of the law officers, to whom they had been referred, and promised again that he would use his endeavors to quicken their action upon them.

Memorandum left with Lord Palmerston, January 10, 1834.—Extract.

Note from Mr. Van Buren, 25th Feb. 1832.	} Respecting the claim of	
Note from Mr. Vail, 25th March, 1833.		sundry citizens of the
Note from Mr. Vail, 4th April, 1833.		United States, for the

restoration, or the payment of the value, of a number of slaves shipwrecked, in 1830, on the island of Abaco, in the brig "Comet," and seized by the colonial authorities of the Bahamas. The answer given by his Majesty's Government, in a note from Lord Palmerston dated the 30th March, 1833, was, that the case was under consideration by the law officers of the Crown, with instructions to report upon it.

Extract of a despatch from Mr. Vail to the Secretary of State of the United States, dated

August 6, 1834.

Having often, though ineffectually, urged the adjustment of the claims
of * * * * *
and of the owners of the slaves shipwrecked on the island of Abaco, in the brig "Comet," I thought it time again to lay before Lord Palmerston official reminders of his promises to hasten the settlement of those claims, in a form better calculated than informal conversations to command his attention and that of the functionaries to whom the business has been referred. I enclose copies of two notes which, with that view, I addressed to him on the 1st instant. In all our conversations on these subjects, his lordship always manifested the best disposition to see them satisfactorily arranged; and of the justice of one of the claims he has repeatedly expressed a favorable opinion. The investigation of them, however, has necessarily been made the concern of other branches of the Government.

Mr. Vail to Lord Palmerston.

The undersigned, chargé d'affaires of the United States of America, regrets that, in compliance with pressing instructions from time to time received from his Government, he is compelled again to call the attention of the right honorable Lord Viscount Palmerston, his Majesty's principal Secretary of State for Foreign Affairs, to the subject of the various communications addressed to his lordship by his predecessor and himself,

in behalf of citizens of the United States, owners of a number of slaves shipwrecked, in the year 1830, on one of the Bahama islands, while proceeding in the brig "Comet" from Alexandria to New Orleans, and forcibly seized and detained by the colonial authorities of those islands for an alleged infringement of certain British statutes to prevent the introduction of slaves in his Majesty's colonies.

Mr. Van Buren, in his note of the 25th February, 1832, and the undersigned, in those which he had the honor of addressing to Lord Palmerston on the 25th March and 4th April of last year, laid before his Majesty's Government, with a full statement of the case, all the allegations and proofs urged by the parties to establish the legality of their claims; and, in the note last referred to, the undersigned, by especial order of his Government, endeavored to place before Lord Palmerston considerations of a peculiar character growing out of the circumstances of the case, but involving principles of international law, imparting to the subject an importance which, in the opinion of the American Government, should recommend it to the early and serious consideration of that of his Britannic Majesty. The undersigned was gratified to perceive, by the answers returned on the 30th March and 24th April, 1833, to the communications above referred to, that steps had been made towards an adjustment of the claim; and he has since derived greater satisfaction still, from the verbal assurances at various times received from Lord Palmerston of his lordship's favorable impression of the justice of the claim, and from his promises that his agency would be employed in bringing it to a speedy settlement.

Persuaded that it is not the wish of his Majesty's Government that unadjusted claims of this description should be suffered long to stand in the way of the perfect understanding now happily subsisting between the two nations, the undersigned, confiding in the disposition manifested by Lord Palmerston to see ultimate justice done to the parties, has no desire unnecessarily to occupy his lordship's time in reverting to a subject which has already so long and so often been under consideration. He is, however, reminded, by the long period of time during which the claimants have been deprived of the use of their property, by their just representations to the undersigned himself and to his Government, and by the reiterated recommendations conveyed to him by order of the President not to allow the subject to be overlooked, of the extent of the injury sustained by the claimants in consequence of the arbitrary act of the British colonial authorities, and of the aggravation that injury daily receives from every fresh delay attending the reparation of it. Under a sense of what is justly due to the claimants, and to the instructions of his Government, the undersigned is, therefore, impelled by considerations of duty which Lord Palmerston will be able to appreciate, again to urge upon his lordship's attention their disappointment at a delay of justice already protracted so far beyond the time necessary to a correct understanding of the case, and their just expectation that his Majesty's Government will use additional exertions to bring it to a prompt and satisfactory adjustment.

The undersigned takes this opportunity to renew to Lord Palmerston assurances of his most distinguished consideration.

A. VAIL.

13 OLD CAVENDISH STREET, 1st August, 1834.

Extract of a despatch from Mr. Vail to the Secretary of State United States, dated

AUGUST 14, 1834.

SIR: It may not be inexpedient that, on assuming the conduct of our diplomatic relations, you should be made acquainted with the state of the unfinished business of this legation. With that view, I beg leave to lay before you the following synopsis of the points upon which its agency has been employed, and which, at this day, remain unadjusted.

1. Claim of the owners of slaves shipwrecked in the brig "Comet." This claim, which had for a long time been under investigation by the law officers of the Crown, has, I understand, lately been transferred to the Treasury, where it remains under consideration. My despatch No. 137 conveyed a copy of my note of the 1st instant, urging its adjustment.

Extract of a despatch from Mr. Vail to the Secretary of State United States, dated

SEPTEMBER 13, 1834.

I will, in compliance with your instructions, and without longer delay than shall be necessary to enable me to copy the documents, endeavor to place before the British Government, in the light which shall appear to me best calculated to attract its attention and impress it with a proper sense of the importance of the subject, the necessary representations against the proceedings of the British commander in relation to the two seamen taken from the ship "Rosanna;" and against the liberation, by the colonial authorities of the Bahamas, of the slaves shipwrecked on one of those islands in the brig "Encomium." You will have seen by the copy which accompanied my No. 137, of a note addressed by me to Lord Palmerston on the 1st August, that I had again added to my frequent verbal notices of the subject, a formal representation against the unreasonable delay in answering our application for redress in the analogous case of the brig "Comet." The repetition of proceedings which, so far as an opinion has been expressed, are looked upon by Lord Palmerston as affording just grounds for reclamation on our part—which, probably, would not have taken place had an earlier decision been given in the former case—will, I hope, enable me at the same time to place this new act of injustice in its proper light, and to add force to the representations already made by the legation against the arbitrary conduct of the colonial agents in the other case also.

Extract of a despatch from Mr. Vail to the Secretary of State of the United States, dated

SEPTEMBER 22, 1834.

SIR: I have the honor to enclose a copy of the note which, in obedience to the directions in your despatch No. 54, I addressed, on the

22d instant, to Lord Palmerston, respecting the claim of the owners of slaves shipwrecked in Fish Key, Abaco, in the brig "Encomium," in February last. You will perceive that I have availed myself of the occasion again to remonstrate against the delay attending our former representations in the analogous case of the brig "Comet," which, I hope, will have the effect of bringing the two claims together under the notice of the British Government, and hasten its final action upon them.

Mr. Vail to Lord Palmerston.

The undersigned, chargé d'affaires of the United States of America, having so recently taken occasion, in his note dated the 1st ultimo, to bring to the notice of the right honorable Lord Viscount Palmerston, his Majesty's principal Secretary of State for Foreign Affairs, the yet unanswered representations of his predecessors and himself in behalf of the owners of the slaves shipwrecked in 1830, on the island of Abaco, in the brig "Comet," and forcibly detained by the authorities of the Bahamas, it is with reluctance that he now enters upon the performance of a duty assigned to him by instructions received a few days ago from his Government, to make this long-pending claim the subject of a fresh appeal to that of his Britannic Majesty. He is instructed to say that the President, impressed from the first with a deep sense of the justice of the demand put forth by the claimants, has seen, with much regret, and with some surprise, the long delay which has already attended the application made, and so often repeated, under his direction; and to state further that that regret is now greatly increased by the occurrence of another shipwreck, attended with analogous circumstances, which, having been followed by a similar interference on the part of the colonial authorities, has given rise to a claim of precisely the same character.

It will perhaps be in the recollection of Lord Palmerston that, in a note which the undersigned addressed to him on the 4th April, 1833, respecting the case of the "Comet," among the considerations which made it desirable that an early decision should be given in that case, the undersigned adverted to the probability that, so long as the authorities of the Bahamas should be allowed to believe that his Majesty's Government were disposed to acquiesce in the reasoning upon which they endeavored to justify their conduct towards the passengers of the "Comet," other cases might arise which would make it the unpleasant duty of the American Government to address itself to that of Great Britain for the redress of similar grievances.

The apprehensions at that time entertained have unfortunately been realized by an occurrence, the particulars of which the undersigned will now proceed to lay before Lord Palmerston, together with the enclosed papers, which will serve to substantiate them.

The most material of these is the protest entered before the American consul at the port of Nassau, in the island of New Providence, by the master and part of the crew and passengers of the shipwrecked vessel, from which it appears that, on the 2d of February last, the American brig "Encomium," Paschal Sheffield, master, sailed from Charleston, in

the State of South Carolina, bound to New Orleans, with a cargo of merchandise, and having on board, among other passengers, forty-five slaves of both sexes and various ages, all natives of the United States, and the property of American citizens, three of whom were likewise passengers on board of the "Encomium." Lord Palmerston is already aware that, although the United States, with a view to the prevention of the African slave trade, prohibit, under the severest penalties, the introduction of slaves from foreign parts into the territories of the Union, they yet permit the free transfer of colored persons born and held in servitude in the country, from one section of it to another; and that, in consequence of this, the case daily occurs of owners of that species of property travelling with their servants through the different States, or, with a view to the formation of agricultural establishments, removing their slaves, by land or by sea, from one State to the other where slavery continues to exist under their respective laws. It was, therefore, under every legal sanction that the slaves in question were placed by their owners on board of the "Encomium," and that the vessel, having received her regular clearance at the port of Charleston, sailed on a voyage recognised as lawful in every respect by the existing navigation laws of the United States. On the night of the 4th of February, while tracking her way along the dangerous shoals which line the coasts of the island of Abaco, she was driven by adverse currents upon a reef, where she struck, and soon became a complete wreck. With much difficulty the passengers and crew succeeded in landing on a small island, called "Fish Key," from whence they were afterwards taken by wrecking-vessels to the port of Nassau, in the island of New Providence. The undersigned begs leave to refer Lord Palmerston to the protest of Captain Sheffield for a detailed account of the proceedings of the colonial authorities of Nassau, in consequence of which, as in the case of the "Comet," the negroes, notwithstanding the united representations of their owners, and of the American consul residing there, were forcibly seized on board of the wreckers, and taken entirely out of the custody of their masters, who, by an official communication, of which Lord Palmerston will find a copy among the enclosed papers, addressed by direction of the Lieutenant Governor to the American consul, were threatened with an ignominious death if they attempted to recover their property and proceed to their original destination.

The perusal of the papers accompanying this communication will enable Lord Palmerston to perceive the analogy existing between this case and that of the "Comet," which has already been so fully laid before his lordship. The leading circumstances being the same in both, must lay the foundation of an equally just claim upon his Majesty's Government, on the part of the persons concerned in the one now under consideration; and appealing, therefore, in their behalf, to the same principles of justice, the undersigned begs leave to refer Lord Palmerston to the reasonings and arguments adduced in support of the other claim, and will merely offer for his lordship's consideration a few additional remarks, which more particularly suggest themselves on the present occasion.

From a letter addressed on the 22d of May, by the Lieutenant Governor to the consul of the United States, it seems that, in ordering the seizure

of the slaves saved from the shipwreck of the "Encomium," his excellency acted, not in obedience to any existing parliamentary enactment declaring the freedom of slaves landing under such circumstances in a British possession, but under an opinion, which he alleges to be to the same effect, by two eminent English jurists. The consul having obtained a copy of the opinion referred to, an extract from it will be found among the papers which the undersigned has the honor to submit for Lord Palmerston's perusal. Though not specifically adduced in support of the seizure in the case of the "Comet," the same opinion having been alluded to by the agent of the claimants, Mr. Van Buren, in his note of the 25th February, 1832, took occasion to demonstrate the inapplicability of that opinion to the case then under consideration, by showing that it had been elicited by circumstances bearing not the slightest analogy to those under which that case had arisen. The conclusive arguments brought forward by Mr. Van Buren might have rendered a bare reference to them sufficient for the purposes of this communication, had not the express avowal of the Lieutenant Governor of the Bahamas that the opinion referred to formed the sole ground of his refusal to restore the slaves rescued from the wreck of the "Encomium" to the possession of their masters, imparted to that opinion, in the present case, an importance which the undersigned deems sufficient to justify him in entering more at large into an examination of the circumstances under which it was given and of the principles which are set forth in it.

It appears that, in the year 1818, a Portuguese ship, engaged in the African slave trade, then permitted by the laws of Portugal, while on her voyage from Mozambique to Brazil, with a cargo of slaves, put in for supplies at the Cape of Good Hope, and was afterwards wrecked on the coast of that colony. Doubts having arisen in consequence of it, under the existing laws of Great Britain prohibiting the traffic in slaves by British subjects, as to the conduct which it would be proper for the colonial authorities to pursue in such a case, the law officers of the Crown were called upon for their opinion on the following points:

1. Whether, under the circumstances stated, the supplies or relief asked for by the Portuguese vessel could have been legally afforded by the colonial authorities.

2. Whether a cargo of Africans, abandoned in consequence of the loss of the vessel on the coast of a British settlement, were to be considered as Africans illegally imported, or considered as free persons.

3. Whether Africans, cast by shipwreck on the coast of a British colony, were to be considered as slaves illegally imported, or as free persons; and whether the authorities of such colony had the power to restore such Africans to their original owners, to be dealt with as slaves, either in the colony or in a foreign country.

The answer of the crown lawyers to the first query was, that the granting of the required supplies would have been a violation of the provision in the act which prohibits British subjects from aiding and assisting in the removal of persons to be dealt with as slaves. But, under another clause, making an exception in cases of distress from weather, the perils of the sea, or other inevitable accidents, they are of opinion that, where assistance or relief is required in consequence of the dis-

tressed state of the crew or of the slaves, it may and ought to be afforded.

Under the second head, their opinion is, that slaves abandoned, as stated, are to be considered and treated as free persons on their landing in the colony.

If cast by shipwreck, as supposed in the third query, the Africans are, according to the view of the legal advisers of the Crown, to be treated as free persons, as in the case immediately preceding.

The first idea that unavoidably suggests itself, on perusal of the document of which the above is believed to convey the substance, is, that it contemplates only the "slave trade"—the *African* slave trade—that is, the practice then sanctioned by the laws of Portugal, and formerly by those of Great Britain also, of carrying away from the coast of Africa persons born to freedom in that country, but sold for the purpose of being reduced to perpetual servitude in others.

The occasion which called for it arose from doubts as to the operation of certain British statutes, passed expressly for the abolition of that practice by British subjects. Those doubts had grown out of the accidental landing of a cargo of natives of Africa upon the coast of a neighboring British settlement. The questions propounded make exclusive use of the term "Africans;" the same language is adopted by the crown lawyers in their solution of those questions; and, throughout, the document, in letter as in spirit, bears incontrovertible proof that those who framed as well as those who called for it, had no case in contemplation but such as, like the one then before them, might grow out of the removal of native Africans from their own country to be sold to slavery in foreign parts. Can it, therefore, be else than a matter of surprise that, with all this evidence before them, the colonial authorities of the Bahamas should have so construed the purpose and language of that document as not only to apply the doctrines it sets up to a case so dissimilar as that of the shipwreck of the "Encomium," but to apply them without the redeeming feature in it, which, in the opinion of the undersigned, might, failing all other guides for their conduct, have justified them in restoring the slaves to their masters.

In order more clearly to point out the dissimilarity between the case of the "Encomium" and that of the Portuguese vessel which the opinion of the crown lawyers was intended to meet, the undersigned, with Lord Palmerston's permission, will submit a parallel between the condition of the African and that of the American slave. The one, born free, is forcibly carried away and sold to slavery in a foreign land; the other, born to servitude, does but continue in a condition to which his ancestors, for generations before him, had been reduced, under a peculiar social organization. The one, by forcible abduction, becomes the property of a master, who holds him as merchandise, until he can dispose of him with profit; the other, under a title originally derived from British laws, continues in the service of a master bound to protect him; and, though transferable to another, under proper legal restrictions, he does not become an object of traffic or expatriation. The former is exposed to arbitrary treatment from the slave-dealer, who has but a temporary interest in his welfare; while the latter, like the free member of the State, is under the safeguard of laws, framed for the security of his per-

son, and for the restriction of the power of his master over him. And, finally, in circumstances like that which has given rise to this representation, while the African is proceeding in the slave-ship from a land of freedom to what is to prove to him one of perpetual bondage, the American slave, under laws enacted by his country, and recognised by all civilized nations, is following the fortunes of his master, a passenger in the same ship with him, and merely removing for the advantage of both, probably—but certainly not for any purpose likely to aggravate the condition of the slave—from one section of the country to another, where he is secure of the same protection.

But, even admitting, notwithstanding this wide distinction between the two cases, that the legal opinion upon which the Lieutenant Governor of the Bahamas professes to have acted is at all applicable to that of the "Encomium," the undersigned thinks that he can perceive in that document an allegation under which, had the authorities of the Bahamas been actuated by any share of the disposition to do justice which the undersigned believes to be entertained by his Majesty's Government towards that of the United States, might have led to an adjustment of the subject which would have rendered this representation unnecessary. In their answer to the first query, the authors of the opinion have the following paragraph :

"The slave-trade acts, however, have introduced exceptions to this general prohibition in cases of absolute distress, and provide that no penalty or forfeiture shall be incurred by any landing, importing, trans-shiping, or carrying of any slaves, where it shall be proved to the satisfaction or the court that the prohibited act entirely arose from stress of weather, peril of the sea, or other inevitable accident; the burden of which proof shall, in all cases, be on the claimant or defendant." "On this authority we think that when assistance or relief is required at the Cape, in consequence of the distressed state of the crew or of the slaves, it may and ought to be afforded: but the extent of such relief and assistance should be measured and limited by the necessity and urgency of the case."

Upon this clause the undersigned might, perhaps, under his assumption that the document is susceptible of being made applicable to the case, safely rest the title of the claimants to redress. After being deprived by shipwreck of all they had but the persons of their slaves, the claimants, under circumstances of "absolute distress," and counting upon that hospitality which, in all other civilized parts of the globe, awaits persons in their situation, apply at the Bahamas for the means of satisfying the most pressing wants of nature and for a ship to carry them home. The undersigned feels that Lord Palmerston will think, with him, that no circumstances of "stress of weather, peril of the sea, or other inevitable accident" could have given to the applicants a more undoubted claim upon the authorities of the Bahamas for the assistance and relief which, in such cases, the crown lawyers themselves think may and ought to be afforded. The refusal of that assistance is a circumstance which the undersigned is unable to reconcile with his idea of the kind of reception which a stranger in distress has, in the present enlightened and philanthropic spirit of the age, a right to expect at the hands of any Power on whose shores misfortune may have thrown him, or with the character of the relations which it is the wish of the United States to see firmly es-

tablished between the two countries. The seizure of their property, instead of it, is a proceeding which the undersigned thinks equally irreconcilable with the ordinary principles of common justice.

The legal opinion alluded to was given in 1818, before the passing of the statute of 5 Geo. IV, chap. 113, "to amend and consolidate the laws relating to the abolition of the slave trade," some of the provisions of which it may be proper for the undersigned to notice in this place, under a belief that they confirm his view of the total inapplicability of the opinion of the crown lawyers to the case under consideration, and that a reference to them cannot fail to satisfy Lord Palmerston that, repealing as they do all former acts relating to the slave trade, and laying down principles totally at variance with those upon which the colonial authorities of the Bahamas assume to have acted, they leave those officers entirely unsupported by any legal authority in the view they have taken of the case of the "Encomium," and the proceedings founded upon them.

The first section of the act, after declaring its object to be the amendment and consolidation of the various enactments relating to the slave trade, a term which, it is believed, no one will think of applying to any trade but the prohibited traffic in African slaves, proceeds to "repeal all acts and enactments relating to the slave trade and the abolition thereof, and the *exportation* and *importation* of slaves;" and the two following sections make it penal for any person to "deal" or "trade" in slaves, to "carry away or remove" them, to "import," to "ship them for the purpose of being imported," and to do all other acts necessarily connected with the former traffic in African slaves; but in none of those sections are there any expressions to authorize the inference that, in framing the act, the Legislature intended to provide for cases like that which forms the subject of this communication. In order to arrive at the true intent and meaning of a legislative enactment, no better auxiliary can be employed than a reference to the main object proposed to be attained by its framers. What was that object, as it presents itself to view in every clause of the act? The suppression and total abolition of the traffic in African slaves. The 9th section assimilates that traffic to the crime of piracy, and attaches to it the extreme penalty of the law. The 52d and following recite the treaties concluded for the same object between his Britannic Majesty and his allies, and provide the means of carrying them into effect. But in no part of the act is any thing to be found looking to the case of slaves belonging to the citizens of a friendly Power, accidentally cast upon the shores of a British settlement in the prosecution of a lawful voyage; while, on the contrary, the 21st section expressly enacts that nothing in the act contained "shall prevent the trans-shipping, and assisting at sea, any slave or slaves which shall be in any ship or vessel in distress."

With this implied if not express warrant to the authorities of the Bahamas to grant to persons situated as were the passengers of the "Encomium," that assistance which they came to seek at Nassau, because it was nowhere else to be found, it is difficult for the undersigned to conceive by what reasoning those authorities could have arrived at the conclusion that they were bound to interfere in any other way, aware as they must have been that the voyage of that vessel was sanctioned by the laws of the United States; and when they found, in the act above refer-

red to, provisions expressly authorizing, in those parts of the British empire where slavery existed at the time, the purchase and sale of slaves for the purpose of being employed in the same colony; their transfer coastwise from one part to another of the same colony, and even their removal from one island to another in the same colonial government; their employment in navigation and fishery; and, when serving in the capacity of domestics, their personal attendance on their masters, wherever these might choose to carry them.

The undersigned is not without hopes that, in the foregoing remarks, he will be found to have stated to the satisfaction of Lord Palmerston the grounds on which it may safely be assumed that, whether appealing to the opinion of the legal advisers of the Crown, in the case of the Portuguese slaver wrecked at the Cape of Good Hope, or invoking the provisions of British legislative enactments, the colonial authorities of the Bahamas, in refusing to restore the slaves who were passengers in the "Encomium" to their rightful owners, have acted in a manner not authorized by any public act intended for their governance in such cases.

Upon this expectation the undersigned might, perhaps, confidently rely for ultimate justice to the claimants; there are, however, considerations of a more general character, which occupy so prominent a place in the view taken of the subject by his Government and himself, that he is compelled to add a few more observations to this communication, which he regrets he has already been so much extended. To some of those considerations he has before alluded, in his note respecting the case of the "Comet." They have their origin in the relations of good neighborhood, which it is so manifestly the interest of the two nations to maintain and improve; but which cannot be successfully cultivated so long as the subordinate agents of his Majesty's Government placed in authority at stations contiguous to the territory of the United States, shall conduct themselves towards American citizens in a manner so little in accordance with the friendly sentiments on which alone those relations can be sustained.

The undersigned is instructed to say that their proceedings in the case of the "Encomium" have produced a deep sensation throughout the United States; but especially in the South, where the existence of a large slave population has rendered the people more sensitively alive to every occurrence that may tend to disturb the relations existing there between master and slave. By the citizens of that portion of the Union, the late transaction at Nassau is looked upon as a direct interference with their rights of property—with rights which had their origin under British rule, and have, since the separation of the two countries, been guaranteed to them by the laws of the United States. Looking again at the circumstances of the case, it cannot be denied that they furnish abundant cause for the dissatisfaction they have produced. The slaves were still in the quiet possession and under the entire control of their masters, whose sole desire was that they should be allowed to proceed with them to their destination, when they were forcibly seized and landed by the same persons who afterwards availed themselves of their own illegal act as a pretext for finally depriving the owners of their property. No application, either on the part of the slaves for their liberation, nor on that of the masters for aid in enforcing their authority as such, appears to

have been addressed to the colonial authorities. Their interference was wholly gratuitous and uncalled for, and can, in no possible view of the case, be considered as characteristic of any desire on the part of those officers to respect the rights of foreigners whom misfortune has placed in their power; particularly when it is considered that this is the second time that the same cause of complaint has, from their illegal acts, arisen in that quarter. Citizens of the United States conveying their property by sea from one part of the Union to another, under authority of the laws of their country, have been taught to believe that, if shipwreck or other calamity should compel them to seek an asylum in the ports of his Majesty's possessions, they might count with certainty upon that hospitality for themselves, and that protection for whatever else may have been spared by the disasters of the sea, which the laws of all civilized communities accord to misfortune in such cases; and the risks of that mode of conveyance have accordingly been calculated with a full reliance upon the permanency of the same just and benevolent policy. But it will readily occur to Lord Palmerston that, if upon erroneous pretences, the depositaries of power are to take upon themselves to declare the forfeiture of property thus unfortunately thrown in their hands, without previous warning of their intentions, immense losses will be sustained before the mode of conveyance referred to can be changed, or the risks attending it so calculated as to afford to the owners of property embarked in it the benefit of the ordinary security afforded by commercial insurance and usage.

The United States cannot but feel with the Government of Great Britain upon all subjects connected with the final annihilation of the inhuman traffic in slaves, and are ever anxious to mitigate, by every means in their power, the evils of slavery, where that feature exists in their social organization; but, in whatever they have done towards the attainment of those objects, they have, with sedulous care, endeavored to respect and even to protect the rights of others against any injury that might accrue from the operation of their laws in relation to the subject; and, in proof of this, a case is now on record in which British slaves, owned in the very port of Nassau, and brought into the United States, on being saved from shipwreck, have, notwithstanding the existing laws prohibiting the landing of that description of persons in the country, been received and handed over to his Majesty's consul at New Orleans, for the purpose of being restored to their British masters.

The undersigned having, in the preceding remarks, fully stated the view which his Government has taken of the particular case under consideration, in its various bearings, has now but to perform the last branch of the duty which has been assigned to him. All other means of redress having failed, the claimants have appealed to the President for his official interposition in their behalf near the Government of his Britannic Majesty; and it is in consequence of the promise given them that that interposition should be promptly and earnestly afforded, that the undersigned has been especially instructed to lose no time in laying the case before Lord Palmerston, and to request that it may, with as little delay as possible, be taken into his lordship's favorable consideration. He is, moreover, commissioned to express the confident hope entertained by the President that, after fully weighing all the circumstances attending it,

his Majesty's Government will perceive that full indemnity to the claimants, both in the case now particularly alluded to, and in that of the persons shipwrecked in the "Comet," which has repeatedly formed the subject of former representations, is due to justice as well as to the character of the relations now existing between the United States and Great Britain, from which it is his desire that all causes that may, by any possibility, tend to impair them, should be speedily and radically removed. The undersigned thinks that he has said enough in this note and in his former communications on the subject of these claims, to impress Lord Palmerston with a sense of the importance that no delay that can possibly be avoided, should be allowed to stand in the way of a speedy adjustment of them. Under that impression, and presuming that such an adjustment will prevent the recurrence of similar causes of complaint, he does not think it necessary to lay any particular stress on the request which he is likewise instructed to lay before his Majesty's Government, that suitable measures may, as soon as practicable, be adopted, to cause the just rights of the citizens of the United States to be respected in future by the authorities of his Majesty's colonies, should they again be placed in their power by misfortune or unavoidable accident.

The undersigned has the honor, on this occasion, to offer to Lord Palmerston the renewed assurance of his most distinguished consideration.

A. VAIL.

13 OLD CAVENDISH ST., *September 20, 1834.*

Extract of a despatch from Mr. Vail to Mr. Forsyth, dated

JANUARY 14, 1835.

I had, the day before yesterday, with the Duke of Wellington, an interview, which I had sought for the purpose of calling his attention more forcibly than I had before done, to the claim of the owners of slaves shipwrecked in the Bahamas in the years 1830 and 1834. After briefly laying before him the leading circumstances of the case, I endeavored to impress him with a sense of the importance attached by the President to its early adjustment, on the ground of common justice to the claimants themselves, and on account of the unpleasant state of feeling which the circumstance had produced amongst the slave-holding population of the United States. I adverted to the dilatory course hitherto pursued in regard to the claim, especially by the law department, and expressed my apprehension that the feelings which had been awakened by the discussion and passage of the emancipation act had been allowed to exercise upon the minds of those who had been charged to investigate the merits of the claim, an influence which had prejudiced the just rights of the parties interested. The duke said that, in consequence of what I had before stated to him on the subject, he had already given directions that the papers relating to it should be collected and laid before him; that this had not yet been done; but that I might rest assured that he would attend to it without delay; make himself acquainted with the merits of the question, and the stage to which the consideration of it had been carried; that, if

ripe for a decision, he would lose no time in making it known to me ; and if not, that he would accelerate it, and see that no delay that could possibly be avoided should be allowed to put off the final adjustment of the matter. The earnest tone in which these promises were given, and the assiduity and punctuality which characterize the duke's official conduct, lead me to hope that the termination of this long-pending negotiation is not far remote.

Extract of a despatch from Mr. Vail to Mr. Forsyth, dated

JANUARY 22, 1835.

I have from the Duke of Wellington additional assurances that our claims in relation to the shipwrecked slaves are under consideration, and have already been the subject of discussion between him and Lord Aberdeen, the colonial secretary.

Extract of a letter from Mr. Vail to Mr. Forsyth, dated

MARCH 14, 1835.

I took a late occasion to remind the Duke of Wellington of his promise of an early decision upon our claim respecting the slaves shipwrecked in the Bahamas. He said that the subject was now at the Treasury, and that he was only waiting for Sir Robert Peel to be somewhat relieved from the great pressure of his parliamentary duties, to summon him and the colonial secretary to a serious and final discussion of the merits of the claim ; and that I might depend upon being apprized of their decision upon it at as early a day as the peculiar circumstances the Government are now placed in would permit.

Extract of a letter from Mr. Vail to Mr. Forsyth, dated

MAY 14, 1835.

SIR: In the note of which a copy is enclosed, addressed by me on the 11th instant, to Lord Palmerston, respecting the seizure by the colonial authorities of Bermuda, and the subsequent liberation of the slaves, passengers on board the brig "Enterprise," I have endeavored, without going again into the arguments urged in favor of the analogous cases of the "Comet" and "Encomium," to impress the British minister with a sense of the importance which, independently of its intrinsic merits, the case derives from the danger of allowing the repetition of those occurrences to establish a practice which we never can sanction. My aim has been to impart to my representation as much strength as the case admitted, without making use of language that could produce any thing like irritation.

Mr. Vail to Lord Palmerston.

It is with deep regret that the undersigned, chargé d'affaires of the United States of America, acting under special instructions recently received from his Government, again has occasion to call the attention of the right honorable Lord Viscount Palmerston, his Majesty's principal Secretary of State for Foreign Affairs, to another illegal seizure of slaves, passengers in an American vessel driven by stress of weather within British jurisdiction, which makes it the duty of the undersigned to address to his Majesty's Government another such representation as those which have so long been before it, the subject of yet unanswered though repeated and earnest appeals to its justice.

The particulars of the present case are briefly told in the enclosed copy of a letter from the American consular commercial agent in the Bermudas to the Secretary of State, from which it appears that the brig "Enterprise," Elliott Smith, master, having on board, as passengers, seventy-eight slaves, the property of citizens of the United States, was, while on her voyage from Alexandria, in the District of Columbia, to Charleston, in South Carolina, driven from her course by a continuance of tempestuous weather, and compelled, for want of provisions, to put, in distress, into the port of Hamilton, in the Bermuda islands; that, on her arrival there, she was seized by the colonial authorities, on the pretext of her having slaves on board, but subsequently released, and the master told that he might proceed on his voyage after repairing damages and refitting; that, afterwards, however, while about availing himself of this permission, he called at the custom-house for his ship's papers, the delivery of them was refused until the pleasure of the Governor of the colony, with reference to the slaves, could be ascertained; that, while detained by this delay, a writ of habeas corpus, issued by the chief justice, was served upon him, requiring his appearance before the court, and the production of the slaves, still remaining on board his vessel, who, on disembarking, were immediately taken from his custody, and proclaimed free, for having been landed in a colony where slavery had then ceased to exist.

The case, though varying in some of its details from those of the brigs "Comet" and "Encomium," already laid before Lord Palmerston, involves the same considerations, and, consequently, gives rise to a third claim of a precisely similar character. It is that of an American vessel pursuing a voyage recognised as lawful by the legislation of the United States and by all the principles of public law, forced, by the act of God, to seek, in a British port, a refuge from the tempest, relief from starvation for her crew and passengers, and that aid, protection, and hospitality, which the code of humanity as well as the immutable laws of justice and the best-established usages amongst civilized nations, secure to the distressed mariner, and to the property in his charge. It exhibits the same desire, on the part of the master, and the same exertions, by retaining the slaves under his charge and control, to prevent any act that, by any possibility, might be construed into an infraction of the well-known laws and policy in force in the colony, which prohibit the introduction of that description of persons; and the same gratuitous and uncalled for interference on that of the local authorities—first, in infringing those very laws by forcibly seizing and landing the slaves, when

nothing appears to show that their safety rendered that step necessary; and then, by availing themselves of their own wrong, to declare the forfeiture of property thus, by uncontrollable events, placed in their power. The undersigned feels confident that such unwarrantable proceedings can be viewed by his Majesty's Government in no other light than as a flagrant violation of all the principles which regulate the intercourse and promote confidence among friendly nations. He is instructed to say that, by the President of the United States, they are looked upon as an outrage committed by subordinate agents of the British power upon the rights and interests of American citizens, calling for a redress which he cannot but hope a sense of common justice, on the part of his Majesty's Government, will not allow them to deny, nor long to withhold.

The grounds upon which that confident expectation of prompt reparation is founded have already been fully laid before Lord Palmerston—first, in the note more than three years ago addressed to his lordship by Mr. Van Buren, then minister of the United States at his Majesty's court, in the case of the brig "Comet;" and, subsequently, in various communications from the undersigned in the same case, and that of the "Encomium." To the statements and arguments presented on those occasions, but little remains that the undersigned thinks could now be added with any prospect of more clearly setting forth the nature and extent of the wrong inflicted upon the parties aggrieved, or the legality of their claim. They were then urged, less with a view of establishing the justice of a demand which the Government of the United States, confiding in the friendly disposition of that of Great Britain, might safely have left to its own merits, and to the principles of right on which it rested, than of satisfying the technicalities of the law, and of showing that, apart from the indisputable equity of the case, the claimants, and their Government for them, were prepared to appeal, without fear, to the spirit and letter of the written code of Great Britain, the solemn decisions of her courts of justice, and the deliberate opinions elicited from her jurists when analogous points have been brought in question. It would but serve to consume his lordship's time to revert, in this place, to those statements and arguments: urged as they were with all the solemnity which express directions from the Government of the United States could impart to them, and with all the earnestness which a deep conviction of their truth could inspire, they were believed to have a claim to the favorable consideration of his Majesty's Government, which had raised, in the mind of the President, an expectation that the subject would, long ere this, have been adjusted. The undersigned has had too many proofs of the disposition evinced by Lord Palmerston to remove from the intercourse between the United States and Great Britain all causes of difference susceptible of affecting its harmonious character, to admit the supposition that the long lapse of time which has intervened since the date of the first communications of the American legation upon the subject of these claims, is to be viewed as an evidence of want of attention to them on the part of his Majesty's ministers, or of an underestimate of their importance; but he is bound by his instructions to say that, in the opinion of his Government, the delay has been protracted far beyond any period that could have been considered necessary for the most deliberate examination, in all their bearings, of the different ques-

tions in any event likely to arise from those communications; and to repeat that, aware though the President be of the delicate character of some of those questions, and disposed, in that spirit, to make every allowance that circumstances appeared to suggest, that delay has been to him a cause of much surprise, and of a regret which he has caused the undersigned frankly to make known to and impress upon his Majesty's Government.

The undersigned has, in his former communications, endeavored to convey to Lord Palmerston an understanding of the importance which these claims derive from their liability to be multiplied, so long as the delegates of his Majesty's power in the colonies adjacent to the Southern sections of the United States shall be permitted to consider the inaction of the metropolitan Government upon the cases under consideration as sanctioning their unjustifiable proceedings. His desire that what he cannot but look upon as a delusion involving dangerous consequences, should, as speedily as possible, cease to be entertained by those authorities, again impels him to present for the consideration of his lordship the fact, that the tide of emigration from the central parts of the Union having taken a direction towards the South, the case daily occurs of owners of slaves removing, by sea, with their families and domestics, and taking a course which unavoidably carries them into the waters of the British islands at the entrance of the Mexican Gulf, where, from the dangers attending the navigation of those seas, they are exposed to such disasters as those which have given rise to these representations. So confident was the undersigned that the case of the "Comet" must speedily be followed by others which would but serve to render the subject still more difficult of adjustment, that, more than two years ago, in his note of the 4th April, 1833, he predicted the recurrence of similar events, unless a line of conduct more accordant with the friendly relations existing between the two countries were, without delay, prescribed to the local authorities in his Majesty's colonies. Twice has that prediction already been verified; and it is a melancholy cause of regret to think that, had the reiterated efforts made by the undersigned in the note above cited, and in his other communications, written and verbal, to Lord Palmerston, been attended with the effect which they were intended to produce, the Government of the United States would have been spared the unpleasant duty of ordering this and another fresh appeal to the justice of Great Britain.

To another part of the note above referred to, the undersigned feels it his duty again to request Lord Palmerston's particular attention. It is that in which, speaking the language dictated to him by his instructions, he adverts to the impossibility that the Government of the United States should ever subscribe to the doctrine which the course pursued by the colonial authorities would tend to establish, that those authorities possess the power to take from the custody of his master, and declare the freedom of every American slave whom chance or circumstances beyond control, as in the cases under consideration, have placed within their reach. Such a doctrine, fraught, as it would be, with other consequences of the most dangerous character, could not fail, if allowed to grow into practice in possessions within sight of the coast of the United States, as are some of the British islands in that quarter, to give rise to

disputes and collisions between the inhabitants of the opposite shores, which the Government of the two countries would find it difficult to reconcile with the amicable relations which it is their desire, not less than their interest, to cultivate and improve.

The undersigned has it in command to apprise Lord Palmerston that the excitement created among the people of the slave-holding members of the Union, in consequence of the second seizure of their property in the case of the "Encomium," has been revived on the occasion which more particularly calls for this communication. His lordship is sufficiently acquainted with the degree of influence which, in the United States, the popular sentiment must ever exercise over the actions of those who are intrusted with the conduct of public affairs, to understand that, in a case like the present, where that excitement is the result of legitimate causes, the President has additional motives to feel it his bounden duty to ask, in behalf of his appeal for the redress of a manifest and indisputable wrong, the immediate action of his Majesty's Government. Lord Palmerston has, in the former communications of this legation, been made acquainted with the nature of the reparation expected by the parties aggrieved, and called for by the circumstances of the case. It but remains for the undersigned to say that the American Government, disappointed by the delay which has hitherto occurred in advancing towards an adjustment of this unpleasant and exciting subject of difference, will henceforth expect to find an evidence of the extent and sincerity of the desire entertained by that of Great Britain to suppress all motives of irritation between the two countries, in the promptitude with which his Majesty's ministers, taking this new appeal into their favorable consideration, will exert themselves to conduct the subject of it to that final and satisfactory termination which, alone, the President can allow himself to look for from the enlightened justice of the British Government.

The undersigned avails himself of this opportunity to tender to Lord Palmerston the renewed assurance of his highest consideration.

A. VAIL.

13 OLD CAVENDISH ST., May 11, 1835.

Extract of a letter from Mr. Vail to Mr. Forsyth, dated

NOVEMBER 6, 1835.

SIR: While the members of this Government were so exclusively engaged as they have been for some time past by engrossing topics growing out of the domestic concerns of the country, I deemed it useless to make any particular exertion to urge an answer to our claims arising from the seizure and liberation of slaves shipwrecked in the British possessions near our shores; never forgetting, however, that I was required by my instructions not to allow the subject to be lost sight of. Believing that I might now venture upon a reminder of our applications, I obtained, a few days ago, from Lord Palmerston, an interview, at which I began by remarking upon the length of time which had elapsed since the date of the first of those applications, the frequent renewals of them, the nearly as

frequent promises of an answer, not yet fulfilled, and the importance attached by my Government, independently of the individual interests involved, to the settlement of the questions which had grown out of the circumstances attending those claims. I stated that my standing instructions made it for me an imperative duty again to bring the subject forward and recommend it to the early and earnest consideration of his Majesty's Government; and I inquired whether any progress had been made towards a settlement. Lord Palmerston said that, though otherwise much engaged, his attention had often been directed towards those claims, which, both from their merits and the circumstances under which they were presented, had been to him a subject of solicitude; that, as I was aware, they had long been under investigation by the law officers of the Crown, who had found the subject so full of difficulties and involving points of such moment, that they had almost shrunk from the task of arriving at definitive and binding conclusions upon them. To the allegation, repeated by his lordship, that the positive statute law of the realm forbade the removal of persons from any British possession to be dealt with as slaves, I again reminded him that, in all the three cases, the actual landing of the slaves within the British jurisdiction had been the act of British authorities, ineffectually opposed and protested against by the owners of the property; and that no law ought to be allowed to take advantage of the laches of those appointed to execute it. He said that the reports so far made by the ordinary law officers of the Crown were but partial, and insufficient to enable the cabinet to clear the subject of its legal difficulties; that no settlement of the claims could be effected without ministers going to Parliament for the necessary appropriation; that the subject was one of such a delicate nature, particularly at this time, that they could scarcely expect an application to that effect to be successful unless sustained by the most unequivocal expression, from the highest law authority in the kingdom, of the legal and positive obligation of Government to answer the demand of the United States; that, as soon as the adjournment of Parliament had given leisure to ministers to look at the question, their deliberations had convinced them of the necessity of a clear, legal demonstration of that obligation; and that, not finding it in the documents before them, nor seeing any prospect of its being obtained from the ordinary law authorities, they had resolved to seek it elsewhere, and that the result of his last conference with Lord Melbourne and the Chancellor of the Exchequer, had been a resolution to refer the whole matter to the judicial committee of the Privy Council, in whom resides the highest legal power in the state; that, accordingly, our different applications, together with all the documents connected with the claims, had been laid before the committee, who either were at this time, or soon would be, engaged in the examination of them; and their opinion once obtained, would, if favorable to the claimants, enable them to back their application to Parliament by authority of the highest character, and if unfavorable, to predicate their answer to our demands upon grounds which would satisfy the President that the obstacles in the way of an adjustment did not arise from any motive inconsistent either with justice or with their friendly dispositions towards the United States. To my inquiry whether the proposed investigation by the judicial committee of the Privy Council would be attended with much delay, Lord Palmerston

expressed his conviction that their attention would be immediately engaged in it, and that a prompt result might be confidently anticipated. I then requested that, if he saw no objection, he would, in a note, either official or not, as he might think fit, communicate to me the substance of what he had stated, as to the stage to which the business had been carried, and he promised that he would do it, so as to enable me to put you in possession of it by this opportunity. The promised communication has not yet been received at the legation.

Extract of a letter from Mr. Vail to Mr. Forsyth, dated

NOVEMBER 14, 1835.

SIR: I have the honor to communicate to you a copy of the note from Lord Palmerston, which had been promised me in time to be sent by the last packet, but which was only received last night, apprizing me, officially, of the reference to the judicial committee of the Privy Council of the subject of our claims arising from the liberation of the slaves shipwrecked in the British islands in the brigs "Comet," "Enterprise," and "Encomium."

Lord Palmerston to Mr. Vail.

The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, has the honor to acquaint Mr. Vail, chargé d'affaires of the United States of America, that, after an attentive consideration of the important questions involved in the claims brought forward by Mr. Vail and his predecessors, for compensation for the loss of slaves from on board of the United States vessels "Comet," "Encomium," and "Enterprise," his Majesty's Government have determined to refer the whole subject to the judicial committee of Privy Council, as being the highest legal authority which can be consulted on this difficult matter; and steps are now taking for this purpose by his Majesty's Treasury.

The undersigned avails himself of this opportunity to renew to Mr. Vail the assurance of his distinguished consideration.

PALMERSTON.

FOREIGN OFFICE, *November 13, 1835.*

Extract of a letter from Mr. Stevenson to Mr. Forsyth, dated

JULY 14, 1836.

Having been accredited, I shall now earnestly enter upon the subjects of the negotiation committed to my charge by your instructions, and press at an early day the claims for indemnity on the part of those American citizens whose slaves were illegally seized and confiscated in some of the

British islands. Mr. Vail's last communication to Lord Palmerston upon the subject remains yet unanswered.

Extracts of a letter from Mr. Stevenson to Mr. Forsyth, dated

JULY 29, 1836.

I received by the last packet but one, your despatch of the 14th of June, * * * It found me busily engaged in preparing my first communication to Lord Palmerston, upon the claims of our citizens for the seizure and confiscation of their slaves by the British colonial authorities. I was consequently prevented from answering it, as I had intended doing, last week. I completed yesterday my argument upon these claims, and placed it in the hands of Lord Palmerston, with an earnest appeal for a speedy and final answer. * * * I expressed, as I was instructed to do, in strong though respectful terms, the painful surprise and regret of the President at the delay which had taken place in the adjustment of these claims, accompanied by an assurance from myself, that he had not relinquished the expectation of its still being done. * * * I have received since my arrival here, letters from some of the claimants, complaining deeply of the delay, and urging my attention to their claims. I shall continue to press them at every favorable opportunity, until they are settled. The length of my communication to Lord Palmerston will not enable me to send you a copy of it by the packet to-day, but it shall be forwarded next week, and I shall feel gratified if the manner in which I have fulfilled your instructions shall meet with the approbation of the President and yourself.

Extract of a letter from Mr. Stevenson to Mr. Forsyth, dated

AUGUST 6, 1836.

I now transmit to you a copy of my communication to Lord Palmerston upon the subject of the shipwrecked slaves, to which I hope soon to receive a favorable answer.

Mr. Stevenson to Lord Palmerston.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has the honor to acquaint Lord Palmerston, his Majesty's principal Secretary of State for Foreign Affairs, that the instructions which he has received from his Government make it an indispensable act of duty to seize the earliest occasion of calling the attention of his lordship and that of his Majesty's Government, to sundry claims of American citizens for indemnity for a large number of slaves wrecked near the British islands, in the neighborhood of the American

continent, and which were seized and liberated by the colonial authorities of his Majesty's Government. The undersigned need scarcely remind Lord Palmerston that it is now more than four years since the first of these cases (the "Comet") was presented to the consideration of his Majesty's Government by Mr. Van Buren, the then minister of the United States at this court; since which, two other cases (the "Encodium" and the "Enterprise") have been added by Mr. Vail, the American chargé d'affaires, followed up by repeated and earnest appeals in favor of indemnity for the losses incurred by the seizure and confiscation of these cargoes of slaves, the property of citizens of the United States. Notwithstanding these appeals to the equity and justice of his Majesty's Government, and the confident expectation of the President, as often expressed, that the whole proceedings of the colonial authorities would be disavowed, and a speedy adjustment of the claims have taken place, no other answer has yet been given by his Majesty's Government, as the undersigned has been informed, than that the subject had been referred to the judicial committee of Privy Council, the highest legal authority of the Government. This delay, as Lord Palmerston has heretofore been advised, and, as might justly have been expected, has caused extreme solicitude and regret on the part of the Government and people of the United States, arising, not less from the importance of the principles involved, and the value of the rights believed to have been violated, than from an awakened and wide-spread sensibility in those portions of the confederacy where the existence of a large slave population has rendered the people more keenly alive to every thing which is calculated to disturb the relations existing between the master and slave. It is under such circumstances that the undersigned has been specially instructed by his Government to press, again, this subject upon the early and earnest attention of his Majesty's Government, and, in doing so, he would not fulfil the duty enjoined upon him, or act with the frankness due to the subject, if he did not seize the occasion as a fit one to acquaint Lord Palmerston that it has not been without increased and painful regret that the President has learned that the representations which have heretofore been made in favor of these claims, have not only failed in producing the indemnity to which they were believed to be entitled, but a knowledge of the grounds upon which it has been deemed proper by his Majesty's Government to withhold it. Whilst, however, these just expectations of the President have not been fulfilled, the undersigned is gratified in having it in his power to assure Lord Palmerston they have not been relinquished, and that the President is still persuaded that their accomplishment will result from a careful review, by his Majesty's Government, made in the spirit of moderation and equity, of the facts and considerations which belong to the subject. Reluctantly, indeed would the Government of the United States be persuaded that the delay which has already taken place in the final adjustment of these claims, was imputable to any intention on the part of his Majesty's Government to procrastinate their decision, or treat with disrespect or injustice the Government or people of the United States.

The characters of both Governments forbid any such construction. All must believe that both Governments are animated with the same zeal

to do each other equal justice, and to cherish the friendly relations which now so happily subsist between them, and that each is alike incapable of offering or suffering any injury of this description. In making this renewed appeal to the well-known justice of his Majesty's Government, by order of his own, the undersigned is satisfied that it will receive a deliberate and candid examination, and if it shall appear, as he is confident it will, to be recommended by those principles which it is the interest as well as the duty of all Governments to observe and maintain, the claims under consideration will not only be admitted, but finally adjusted by his Majesty's Government.

The previous communications heretofore made by Mr. Van Buren and Mr. Vail having placed his Majesty's Government in possession of full and authentic information, not only as to the number and value of the slaves seized and liberated, and the circumstances under which it was done, but of the grounds upon which the claims for indemnity rest, it will not be needful, nor is it the intention of the undersigned, in the remarks which he will have the honor of submitting to Lord Palmerston's consideration, to recapitulate in detail the statements or repeat the arguments contained in the communications of his predecessors, and with which his lordship must doubtless be familiar. The undersigned will therefore content himself with referring Lord Palmerston to these communications for proofs which it is unnecessary to repeat, and for arguments which he could scarce hope to improve. As there are, however, some principles and doctrines involved in these proceedings of the colonial authorities so new and alarming, not only to national sovereignty and sensibility, but to the rights of property and the friendly relations of the two countries, the undersigned feels that he owes it to his own Government, as well as that of his Majesty, to present upon this occasion to the consideration of Lord Palmerston, the views which have suggested themselves to his mind, with the grounds upon which they rest. He will do this with all possible brevity, but at the same time with the utmost simplicity and frankness, assured, as he is, from the disposition manifested by Lord Palmerston throughout the negotiation, that the undersigned could in no other way so well consult the wishes of his lordship or the respect which he owes to his Majesty's Government.

That the remarks which he intends to submit may be clearly understood and applied to the facts in proof, he will very briefly restate the three cases as they have heretofore been presented to Lord Palmerston's consideration.

And first, as to the Comet. This vessel sailed in January, 1831, from the port of Alexandria, in the District of Columbia, bound to New Orleans, in the State of Louisiana, (both ports being within the limits and jurisdiction of the United States,) with a cargo of one hundred and sixty-four native-born slaves, the property of citizens of the United States. She struck in the night upon rocks in the Spanish Key, bilged, and became a wreck before day. The slaves were all saved, and placed on a reef of rocks in sight, from which they were soon afterwards taken by three Bahama wrecking-vessels belonging to British subjects, and carried into the harbor of Nassau. Arrived off the port, a boat was despatched to advise the American commercial agent residing in Nassau of their distressed situation, and requesting to be informed if there was any

objection to entering the port, and remaining until another vessel could be procured, in which the slaves might be trans-shipped to their original port of destination. On receipt of the agent's answer, the vessel passed the bar, and came to anchor within the harbor, when the agent placed guards on board, and eleven of the slaves escaped, and were by the authorities of Nassau put in confinement. The remaining number were afterwards seized, libelled in the instance court for a violation of the British statutes in relation to the importation of slaves, but the libel, on a hearing, was dismissed, and the slaves ordered by the court to be restored. The colonial authorities, however, interposed, refused to let the slaves be surrendered, and having declared them free, they were abandoned by the captain.

1734 The second case, the *Encomium*, took place in 1832. This brig, with forty-five slaves on board, sailed on the 2d of February, 1832, from Charleston, in the State of South Carolina, to New Orleans. On the night of the 4th (two days only after sailing) she was wrecked on a reef near the island of Abaco. The slaves were landed on a small island called Fish Key, and taken by his Majesty's wreckers to the port of Nassau, in New Providence, where, as in the case of the *Comet*, the slaves were declared free by the colonial authorities, and accordingly liberated.

The third case was that of the *Enterprise*, which sailed from Alexandria, in the District of Columbia, to Charleston, in South Carolina, with seventy-eight slaves, the property also of citizens of the United States. This brig was driven from her course by tempestuous weather, and compelled, for want of necessary provisions, to put into the port of Hamilton, in one of the Bahama islands. On her arrival, she was seized under the pretext of having slaves on board, but was afterwards released, and the captain informed that he might proceed on his voyage. Soon afterwards, however, and whilst engaged in availing himself of the permission, a writ of *habeas corpus* was issued and served upon him, requiring the production of the slaves then on board the vessel. The writ was obeyed, and, on disembarking the slaves, they were immediately taken from his custody and declared free, in consequence of their having been landed in a colony where slavery had ceased to exist.

These cases, it will at once be perceived, are substantially alike in their nature and character, and involve the same principles and consequences. The important inquiry, then, which first presents itself, is this: Upon what grounds are the proceedings of the colonial authorities to be justified; and had Great Britain any right to enforce, against these vessels, and the property of citizens of the United States, the municipal laws of her dominions? And here the undersigned will take occasion to remark that, whatever doubts might have existed in the case of the *Comet*, as to the true grounds upon which the authorities of Nassau interposed and liberated the slaves, they have since been removed by the proceedings in the subsequent cases of the *Encomium* and the *Enterprise*.

By the official declaration of the Lieutenant Governor of New Providence in those cases, it was expressly declared that, in liberating the slaves, the colonial authorities acted under no British statute declaring the freedom of any slaves that might be landed within the British dominions, but that it was alone upon the authority of an opinion (which

they were bound to respect) given by Sir Christopher Robinson, judge of the vice admiralty court, and the late Lord Gifford, at the instance of the Secretary of State, for the regulation of the governors of his Majesty's colonies, upon the subject of fugitive and shipwrecked slaves brought within their jurisdictions. The following is an extract from that part of the opinion in relation to this subject: "*That all Africans cast on the shores of a British colony in consequence of the wreck of the vessel in which they were conveyed as slaves, are not to be considered as slaves illegally imported, but as free persons; and in such cases we think the Governor of the colony has no power to deliver up these Africans, without their consent, to the person claiming ownership over them, either for the purpose of being dealt with as slaves in the colony, or being conveyed to a foreign country for the purpose of being so dealt with. In such case, as in abandoned slaves, they are to be dealt with by the Governor as persons in such a situation (not being Africans) would be, and no claim for indemnity could be supported by the supposed owner on account of such interference by the Governor.*" This opinion was given in 1818 in relation to a Portuguese ship, engaged in the African slave trade, which was wrecked with a cargo of Africans on the coast of a British settlement near the Cape of Good Hope; and doubts having arisen what course the Governor of the colony ought to pursue in relation to the subject, the law officers of the Crown were consulted, and gave this opinion. Of the doctrines contained in this opinion, and of their total misconception and misapplication by the authorities of New Providence, the undersigned will forbear at this time to enlarge; but he begs leave to refer Lord Palmerston to the communications of his predecessors under date of the 25th of April, 1832, and the 20th September, 1834, in which this branch of the subject is examined and discussed, and in which it is clearly shown that this opinion was alone intended to reach the case of *Africans and the African slave trade*, and not the *slaves of the United States*, and that it was therefore wholly inapplicable to the cases now the subject of consideration by his Majesty's Government. The claim of power, then, on which his Majesty's Government is left to vindicate the proceedings of their colonial authorities, must rest exclusively upon the provisions of their West India emancipation act, passed in 1834. This act abolishes slavery throughout the possessions of the British Crown, and declares that, in no part of the empire, whether metropolitan or colonial, shall the rights incident to slavery any longer be enforced; that the fugitive slave, whatever may be his obligations, or whatever the rights of others over him in a foreign country, shall, within the British dominions, be henceforth regarded and dealt with as a free man. With the operations of this act within the dominions of Great Britain, and over its subjects, foreign nations can have no interest—the legislative and judicial authority of his Majesty's Government over its own subjects and colonies being indisputable; but no independent nation will ever consent to concede to Great Britain, under this act, or any other, the right to legislate for it, as well as her own dependencies. It is against all such doctrine and its consequences, as applicable to the United States and its citizens, that the undersigned now feels himself, as the representative of his country, called upon in the most solemn manner to protest. And before any color can be given to such a claim of power and jurisdiction, under the

West India act of emancipation, it will be incumbent on those who assert it, not only to establish that slaves are not property within the United States, but that slavery and the slave trade are prohibited and condemned by the law of nations: for if it be true that, by the constitution and laws of the United States, slaves are not property, and the slave trade is prohibited by the law of nations, then, indeed, there would be some foundation for the argument that, in relation to these seizures and confiscations, there had been no violation of national rights and no claim to the indemnity asked.

These two points the undersigned will now proceed to examine. Upon the first, as to the nature and character of the slave property in the United States, the argument lies within a narrow compass, and it will not be needful for the undersigned to enlarge. He feels assured that it will only be necessary to refer Lord Palmerston to the provisions of the constitution of the United States, and the laws of many of the States, to satisfy him of the existence of slavery, and that slaves are there regarded and protected as property; that, by these laws, there is, in fact, no distinction in principle between property in persons and property in things, and that the Government have more than once, in the most solemn manner, determined that slaves killed in the service of the United States, even in a state of war, were to be regarded as property and not persons, and the Government held responsible for their value; that the first article of the constitution of the United States, apportioning representatives among the several States, expressly recognises slavery, and incorporates it in the principles of their Government. Domestic slavery, then, is not only not prohibited by the Government of the United States, but forms a basis (as property) of their representation; is infused into their laws and mixes itself with all the sources of their authority. Nor is this doctrine of property in slaves new to Great Britain. At one time the annals of her history inform us that, by the solemn judgment of her twelve judges and the high law officers of the Crown, negroes were not only regarded as property, but declared to be merchandise within the operation of her navigation laws, at least with respect to her colonies; and recently, (indeed at the period of the seizure of the Comet,) her West India colonies were filled with slaves. So, too, in her treaties with the United States, Great Britain has repeatedly recognised the principle of property in slaves, and as such made compensation for them. As far back as the treaty of 1783, there was a provision "*that all prisoners on both sides shall be set at liberty, and his Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any NEGROES or OTHER PROPERTY of the American inhabitants, withdraw all his forces,*" &c. Again: in the treaty of Ghent, as late as 1814, it was provided in one of the articles "*that all places belonging to either of the parties shall be surrendered without causing any destruction or carrying away, &c. ANY SLAVES or OTHER PRIVATE PROPERTY.*" Under this treaty the abducted slaves were ascertained and paid for by his Majesty's Government. It is worthy of remark that, in both these treaties, negroes and slaves are, *in terminis*, declared and admitted by both the contracting parties to be property. Regarding them as property in her solemn treaties, and paying for them as such, can it now be maintained, at least as far as Great Britain and America are concerned, that

the slaves of the latter are not to be considered as property, and this too after repeated adjudications of the highest tribunals both in England and America, as well as by the law of nations, that slaves shall be regarded as property in every nation whose municipal regulations sanction slavery? How can the United States, as a sovereign and independent nation, surrender the vital right to regulate the subjects of property according to their own opinions of right, or as convenience or policy may dictate; and what nation has a right to ask from her such a sacrifice? Such a right she cannot and will not consent to surrender. The first point, then, in support of the claim of jurisdiction fails. Nor is the question under the law of nations, in the opinion of the undersigned, less clear and conclusive.

When or where has the doctrine ever been established, that slavery or the slave trade was prohibited or condemned by the law of nations? How long has it been since this trade, once participated in by the civilized nations of Europe, has been regarded as criminal by the public law, or its prohibitions enforced by the confiscation of the property of those engaged in it? When was it so considered by the statesmen and jurists of Europe or America? How often has this question of slavery and the slave trade been the subject of adjudication in the British courts? Can there be an instance pointed out in which Great Britain herself, whenever the question has been made in her courts, has not admitted, in the most solemn manner, that the slave trade was not prohibited by the law of nations? Her judicial annals are filled with cases affirming directly this doctrine; and, in proof of this, the undersigned begs leave to refer Lord Palmerston to one or two leading cases. In an action brought by a *Spanish merchant* against a captain of the royal navy for damages in having seized his ship, with three hundred slaves, engaged in the African slave trade, the court of King's bench unanimously decided that foreigners who are not prohibited by the laws of their own country from carrying on the slave trade, may, in British courts of justice, recover damages for the wrongful seizure, by a British subject, of a cargo of slaves on board a ship engaged in that trade. In that case the following language was held by some of the judges:

Bayley, Judge. "Although the language used by the legislature, in the statute referred to, is undoubtedly very strong, yet it can only apply to British subjects, and can only render the slave trade unlawful if carried on by them. It cannot apply in any way to foreigners. It is true that, if this were a trade contrary to the law of nations, a foreigner could not maintain the action; but it is not, and as a Spaniard cannot be considered as bound by the laws of the British legislature prohibiting this trade, it would be unjust to deprive him of a remedy for the wrong which he has sustained. He had a legal property in the slaves of which he was by the defendant's act deprived."

Best, Judge. "The statutes that have been referred to speak in just terms of indignation of the terrible traffic in human beings; but they speak only in the name of the British nation. The declaration of the British legislature that the slave trade is contrary to justice and humanity, cannot affect the subjects of other countries, or prevent them from carrying on this trade out of the limits of the British dominions. The assertion of a right to control the subjects of other states in this respect, would be inconsistent with the independence which we acknowledge,

and that every foreign government possesses. If a ship be acting contrary to the general law of nations, she is thereby subject to confiscation; but it is impossible to say that the slave trade is against what may be called the common law of nations. It was, until lately, carried on by all the nations of Europe. It is clear that the slave trade is not condemned by the general law of nations. The subjects of Spain have only to look to the municipal laws of their own country, and cannot be affected by any laws made by our Government."

Again: in some of the more recent cases in England, the doctrine was elaborately considered by Sir William Scott, and the previous decisions fortified by his high authority. These decisions have justly been regarded as settling the question in the English courts, and throughout his Majesty's dominions. The undersigned again prays Lord Palmerston's attention to the following language of Sir William Scott, animadverting upon a decision given in Sierra Leone, condemning a Swedish vessel engaged in the slave trade:

"This condemnation," says the judge, "took place on principles which this court cannot in any manner recognise, inasmuch as the sentence affirms that the slave trade, from motives of humanity, has been abolished by most civilized nations, and is not, at the present time, authorized by any. The court is disposed to go as far in discountenancing this odious traffic as the law of nations and the principles recognised by English tribunals will allow it in doing; but beyond these principles it does not feel itself at liberty to travel. It cannot proceed in a sweeping anathema of this kind against property belonging to the subjects of other foreign independent states. The position laid down in the sentence of the court below, that the slave trade is not authorized by any civilized state, is, unfortunately, by no means correct, the contrary being notorious from the fact that it is tolerated by some of them. This trade was, at one time, universally allowed by the different nations of Europe, and carried on by them to a greater or less extent, according to their several necessities. Our own country, it is true, has taken a more correct view of the subject, and has secured the abolition of the slave trade as far as British subjects are concerned; but it claims no right of enforcing its prohibitions against the subjects of those states who have not adopted the same opinions with respect to the injuries and immoralities of the trade. It is highly fit that the judge of the court below should be corrected in the view which he has taken of this question, since the doctrine laid down by him in his sentence is inconsistent with the peace of this country and the rights of other states."

In another case, on an appeal to the high court of admiralty, the whole doctrine was again reviewed, and the following strong and marked language was used by Sir William Scott, in declaring the judgment of the court:

"Let me not be misunderstood or misrepresented as a professed apologist for the practice, when I state facts which no man can deny, that personal slavery, arising out of forcible captivity, is coeval with the earliest history of mankind; that it is found existing (and as far as it appears without animadversion) in the earliest and most authentic records of the human race, and was recognised by the codes of the most polished nations of antiquity; that under the light of christianity itself, the posses-

sion of persons so acquired, has been, in every civilized country, invested with the character of property, and secured as such by all the protections of law; that solemn treaties have been formed, and national monopolies eagerly sought, to facilitate and extend the commerce in this asserted property; and all this with the sanction of law, public and municipal, and without any opposition, except the protests of a few private moralists, little heard and less attended to, in any country, until within these few years in this particular country. If the matter rested here, I fear it would have been deemed a most extravagant assumption in any court of the law of nations, to pronounce that this practice—the tolerated—the approved—the encouraged object of law ever since man became subject to law, was prohibited by that law, and was legally criminal. But the matter does not rest here. Within these few years an undeniable change of opinion has taken place, particularly in this country. Formal declarations have been made, and laws enacted in reprobation of this practice, and pains, ably and zealously conducted, have been taken to induce other countries to follow the example, but at present with insufficient effect; for there are nations which adhere to the practice under all the encouragement which their own laws give. What is the doctrine of our own courts of the law of nations relating to them? Why, that their practice is to be respected; their slaves, if taken, restored to them; and, if not taken under innocent mistake, be restored with cost and damages. All this wisely upon the ground that such conduct on the part of any state is no departure from the law of nations."

And such too has been the course of decisions in the Supreme Court of the United States. The late Chief Justice Marshall, following in the footsteps of Sir William Scott on this subject, thus expounds the doctrine:

"That the course of opinion on the slave trade should be unsettled ought to excite no surprise. The Christian and civilized nations of the world, with whom we have most intercourse, have all been engaged in it. However abhorrent this traffic may be to a mind whose original feelings are not blunted by familiarity with the practice, it has been sanctioned, in modern times, by the laws of all nations who possess distant colonies, each of whom has engaged in it as a common commercial business which no other could rightfully interrupt. It has claimed all the sanction which could be derived from long usage and general acquiescence. This trade cannot be considered as contrary to the law of nations, which was authorized and protected by the laws of all commercial nations, the right to carry on which was claimed by each, and allowed to each. Whatever might be the answer of a moralist to this question, a jurist must search for its legal solution in those principles of action which are sanctioned by usages, the national acts, and general assent of that portion of the world of which he considers himself as a part, and to whose laws the appeal is made. If we resort to this standard as the test of international law, the question is decided in favor of the legality of the trade. Both Europe and America embarked in it, and for nearly two centuries it was carried on without opposition and without censure. A jurist cannot say that a practice, thus supported, was illegal, and that those engaged in it might be punished, either personally or by deprivation of their property. In this commerce, thus sanctioned by universal

consent, every nation has an equal right to engage. How is this right to be lost? Each may renounce it for its own people, but can this renunciation affect others? No principle of general law is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights. It results from this equality that no one can rightfully impose a rule on another. Each legislates for itself, but its legislation can operate on itself alone. As no nation can prescribe a rule for others, none can make a law of nations, and this traffic, therefore, remains lawful to those whose Governments have not forbidden it."

The undersigned, in thus bringing to the view of Lord Palmerston these decisions of the English and American courts, was anxious that his lordship should see that the only ground upon which the legality of the slave trade has ever been assailed, to wit, that it was contrary to the law of nations, has been finally and conclusively settled both by the bench and bar in both countries. There is, then, the highest authority for assuming that slavery and the slave trade are not prohibited by the public law, but are wholly untouched by it. The second and strong ground, then, in vindication of the right claimed to liberate these slaves by the colonial authorities fails, and with it, of course, the right itself. If, then, before the passage of the West India emancipation law, the slave trade was not only not prohibited, but protected, the next inquiry which presents itself is this: Can the provisions of that law, whatever they may be, change the universal law, and be made to operate upon the property of American citizens under such circumstances as those which distinguish these claims? What then is the nature and extent of such jurisdiction under this act? That the municipal laws of one nation cannot be extended beyond its own territory (except as regards its own subjects or citizens) so as to bind the subjects or citizens of another nation, is a proposition which the undersigned had supposed was too clear now to be questioned. However differently the law of nations may be understood in different countries, it has never been supposed to confer on one nation the right of invading, under its municipal regulations, the rights or property of another. Among all the doubtful principles of public law asserted in modern times, there is not one of a more alarming and dangerous character than *this*. It results from the equality and independence of nations as well as the universal principles of right, that the jurisdiction intrusted to one nation, for wise and equitable purposes, by that public law which is common to all, cannot and ought not to be allowed to encroach upon the rights of other nations. The laws of nations, which consider states as so many individuals upon a footing of relative equality, confer jurisdiction upon none without annexing to the grant a condition that, in its exercise, it shall not trench upon the rights of any other member of the great society of nations. Regarded as a system of moral equity applied to civil society, as it justly is, its great object is, not only to respect, but shield from infringement the rights of all without preference of any. To the consequences which would follow from the establishment of a right, in any one nation, to extend its laws beyond its own territory and subjects, to those of other nations, none can be insensible, and especially nations between whom there exists such enlarged views of policy and friendship as those of Great Britain and the United States. Ought any single nation to desire or hope to control the universal law?

Will free and sovereign nations subscribe to any such pretension on the part of any one? Ought they? Will any one nation agree, at the will of another, to have its sovereignty violated and the property of its citizens sacrificed, and they reduced to ruin? Besides the peculiar character of the trade between G. [Britain] and America, which such a power would destroy, would not its exercise tend to draw them from those peaceful and friendly relations, upon the continuance of which the interests and happiness of both so especially depend? Upon this subject the undersigned speaks with the utmost confidence when he assures Lord Palmerston that the claim of power involved in these proceedings of the colonial authorities, swelling as it must the jurisdiction of his Majesty's Government, not only over its own dominions and subjects, but giving a direct and unqualified control over other nations and their citizens, can never be conceded by the Government of the United States, without surrendering its independence and sovereignty as a nation, and disregarding those high obligations of duty which it owes to its own citizens and the other nations of the world. But is such, in truth, the wish or doctrine of Great Britain, and will his Majesty's Government support their colonial authorities in asserting or enforcing it? It is presumed not. And here it becomes important to inquire into the objects and character of her act of West India emancipation, upon which must now exclusively rest the justification of the seizures and confiscations in these cases. Did the Parliament that passed that act intend to confer, under its provisions, any such power upon his Majesty's Government or its colonial authorities? That they did not, is, in the opinion of the undersigned, more than apparent; and he is justified in this opinion, not less by the language of the act than by its objects.

The leading motives of those who passed that law cannot, he thinks, be mistaken. That they were to place the colonies of the British Crown upon the same footing with the mother country in relation to their slave population, none, it is presumed, can doubt. Regarding domestic slavery as a social and moral evil, the British Parliament intended (and it was so declared at the time) this act as the remedy for its final extinguishment. It was however for Great Britain and her colonies, and not for America, that they legislated. It was by the force of example, and not by municipal enactments, that they hoped and intended to affect the laws and institutions of other nations upon this deeply interesting and agitating subject.

A different and more enlarged interpretation of the act is not only unauthorized by its language, but would be unsuitable to its objects, and at variance with the rights of all other nations. And such, too, the undersigned is happy to believe, was the view taken of it by one of the present enlightened and distinguished ministers of his Majesty's Government, in official instructions given by him to the local authorities of the colonies, for their government under this act, soon after its passage. In proof of this the undersigned respectfully begs leave to refer Lord Palmerston to the circular despatch which Mr. Secretary Spring Rice gave to the governors of the West India colonies, including the Bahamas and Bermuda, to the Cape of Good Hope, and to the Mauritius, dated the fourth of November, 1834. In this despatch the following language was held by Mr. Secretary Rice: "*The abolition of slavery on the first of August*

did not impose the duty, or confer on us a right, of furthering the same result in foreign countries, by promoting the desertion of their slaves, or by any other indirect methods. After the lapse of many years, the Parliament and people of this realm, aided by and associated in this great work with the Legislatures of the British colonies, have established the principle that domestic slavery is a moral and social evil, which, as a matter of wise policy, as well as of moral and social duty, it became necessary to extinguish. But we have no claim to demand the adoption of that principle by other nations. On the contrary, we must respect in them that proprietary right which we have so long exerted and exercised ourselves. The moral influence of our example will not be without a salutary, and, as I trust, an early effect upon the slave codes of other states. In the mean time, justice and humanity concur in requiring us rather to discourage than promote the resort of foreign fugitive slaves to the shores of our own colonies." This language is too clear to be misunderstood or resisted. It fixes the true character and object of this law, and shows its total incompetency to justify the proceedings of the colonial authorities in relation to these cases. It may then fairly be assumed that slavery, not being prohibited by the law of nations, or the Government and laws of the United States, but protected by both, and Great Britain having no right to extend her laws beyond her territories, (except as regards her own subjects,) and not intending that her act of West India emancipation should be so regarded, the proceedings, in these cases, of her colonial authorities, were unauthorized and illegal, and the indemnity asked of his Majesty's Government both equitable and just. Here the argument on the question of power might safely be concluded, but the undersigned wishes to consider it under the most favorable light in which it can be placed for those who justify the proceedings of the colonial authorities.

Let it then be conceded, for purposes of illustration, that the colonial authorities had the right of liberating American slaves seeking the protection of Great Britain, or carried within her dominions, it is yet maintained that, before the jurisdiction can attach, the possession of the slaves must have been acquired rightfully, and not in violation of any of the principles of public law, or the usages of civilized nations. Let these cases be tested by this standard.

These vessels, it will be borne in mind, belonged, with their cargoes, to a nation at peace with Great Britain. They were engaged in transporting from one part to another, of their own country, the property of its own citizens. That, by the laws of that country, and of the several States, the right of transporting their slaves is especially protected and guarded. That these vessels, sailing under the protection of the law of nations and existing commercial treaties, suffered shipwreck, under the most appalling circumstances, upon the British coast. The cases are purged of any intentional violation of the laws of Great Britain, by clear and irrefragable proofs. Their avowed destination was to the United States. They were seized by British wreckers, in an open sea, and carried into port. The protests of the masters were disregarded; the complaints of the commercial agents treated with contempt, and the slaves liberated. Can the acts of these wreckers, in seizing these vessels and their cargoes, be made to affect their innocent owners? Are they to be

held responsible for the acts of British subjects? Would it be just to visit upon the owners of property, under such circumstances, the sins of others, or the acts of God? But, if these vessels had been engaged in a trade contrary to the law of nations and the municipal laws of their own country, and consequently subject, by the public law, to seizure and confiscation by Great Britain, or her colonial authorities, *coming under other circumstances into their power*; yet, did not the simple fact of having obtained possession of them, through the *means of shipwreck and necessity*, interpose a barrier against the exercise of power which the civilized nations of the world, at all times and under all circumstances, have acknowledged and held sacred and of binding force? And how strongly is such a claim of protection illustrated by the doctrines of public law, and the practice of civilized nations in relation to a state of war. After a declaration of war, Vattel declares that the sovereign cannot detain the persons or property of the subjects of the enemy who are within his dominions at the time of the declaration of war, but is bound to allow them time to withdraw; and if, after reasonable time allowed, they are detained by insurmountable impediments, as sickness and the like causes, the time must be extended. Hence, too, the tribunals of the law of nations, before they have enforced the principles of blockade, have uniformly admitted that, if a party be led into the blockaded port by some accident which he could not control, or for want of some information which he could not obtain, he shall be excused, and suffered to depart. Nor is this doctrine of extending protection to the shipwrecked and unfortunate unknown to Great Britain. She has, herself, consecrated it in her practice, under the most rigid system of her blockade and prize laws. In proof of this, the undersigned will content himself with referring to a single and leading case. In the case of the *Diana*, the council, in 1800, restore an enemy's ship for the single reason that she had been compelled to enter the port *by stress of weather, and to avoid shipwreck*. Upon that occasion the Attorney General said, "*I should equally fail in my respect to myself and to the council before whom I have the honor to represent the Government, were I not to maintain a principle consecrated by our laws, and those of all nations.*" So, too, Sir William Scott, in another case, declared "*that an imperative, overruling compulsion to enter a blockaded port, such as continued gale or shipwreck, will always excuse.*" If, then, this doctrine of humanity is to be respected and enforced upon the subject of blockade (the most severe and harsh in its operation of any in the whole code of public law) in the case of a common enemy, with what peculiar force is it applicable to two nations situated as Great Britain and America now are! There is believed to be no warrant for the exercise of such a power, under such circumstances, in the opinion of any respectable writer upon public law; no written or recorded precedent in the practice of any of the civilized nations of the world. Shall the barbarous practice of ancient times, "which took that which the tempest spared," be again revived? Shall misfortune and shipwreck be considered criminal, and confidence in the justice and hospitality of a friendly nation be punished by forfeiture and confiscation? Will a nation, standing so pre-eminently high as Great Britain, lend its sanction to doctrines condemned alike by reason and justice; by that law which flows from and is founded on them; and by the uni-

versal voice of every civilized nation—doctrines which received the solemn denunciation and reprobation, in the face of the whole world, of her own high tribunals? That it will not, the undersigned will not permit himself for a moment to doubt. So much as to the general principles involved in these claims. Before, however, closing the discussion, (upon which, perhaps, he has dwelt too long,) the undersigned will take occasion to offer a single remark upon the course which the Government of the United States have felt it their duty to take upon the subject of the African slave trade. He is aware, as is probably Lord Palmerston, that there is supposed to exist some degree of inconsistency between the measures taken by the American Government for the abolition of that trade, and the doctrines which it now maintains: but is there, in truth, any color for such an imputation? That the Government of the United States have used all the means in its power, consistently with the constitution and the rights of the confederated States, to abolish this trade, is most true; but it has been done alone by the force of municipal laws and regulations. They have not only prohibited it to their own citizens by penal as well as revenue and trade laws, but made it a high criminal offence, and punished it as piracy. The existence of domestic slavery in the United States forms no excuse for extending the guilt or misery of the African slave trade. It should be borne in mind by those who are upbraiding the United States with inconsistency, that slavery was introduced among them during their colonial dependance, and against the solemn remonstrances of their legislative councils. America did not introduce it. There is no nation, then, that has any right to reproach her for supposed inconsistency in her honest efforts to extirpate the slave trade whilst she yet tolerates domestic slavery. The last is a matter not for other nations, but for herself alone; and, as to the first, the undersigned will take occasion to say that, whilst many, nay most of the civilized nations of the world were engaged in this odious traffic, and whilst it was sanctioned by most of the nations having colonies, and who engaged in it as a commercial business, America led the way, and was foremost among all Christendom in adopting and enforcing the most rigorous measures for its final overthrow. In resisting then the right of his Majesty's colonial authorities to confiscate the property of its citizens, and supporting their claims for indemnity, the Government of the United States are not only consistent, but are fulfilling the highest obligations of duty, and the undersigned wishes it to be distinctly understood that his Government, in the course which it is taking upon this subject, disclaims any wish of connecting it with the policy of the two countries upon the subject of the abolition of the African slave trade. He feels justified then in solemnly and confidently asserting that the course of the Government of the United States in relation to this subject, affords no just ground for any supposed imputation of inconsistency. Thus much the undersigned has felt it his duty to say, in vindication of his Government upon the subject; if he had said less, that duty would have reproached him.

Upon the character of the indemnity, and amount of compensation, it will not be necessary at this time to say any thing. That will, as a matter of course, become a subject of negotiation, after the principles involv-

ed shall have been settled. Should however his Majesty's Government finally determine to make compensation, rather than return the slaves, or should the return of the slaves become impracticable under any implied faith which may have been pledged to the slaves by the colonial authorities, then, the undersigned presumes (in the absence of any specific instructions from his Government on the subject) that the violation of any such pledge will not be required either by the claimants or his Government; but satisfactory arrangements can be made for ascertaining the value of the slaves, and the injuries sustained, and such compensation accepted as the justice and equity of the cases may justify.

The undersigned has now had the honor of presenting to Lord Palmerston the views which have suggested themselves to his mind upon this important subject. He has endeavoured to urge them in a manner due to the importance of the subject and the interests and feelings of his own country, and with sentiments of profound respect for his Majesty's Government. In forbearing to press the subject further upon the attention of Lord Palmerston, the undersigned feels assured that a mind less liberal and enlightened than his lordship's will perceive, not only the deep interest which the subject possesses, but the just grounds upon which the claims for indemnity rest, and that these will constitute a sufficient motive with his lordship to employ his interposition with his Majesty's Government for their speedy adjustment, in the manner best adapted to its accomplishment. As the Government of the United States expect from the undersigned an early communication upon the subject, he feels assured that his lordship will take pleasure in enabling him to fulfil the expectation in a satisfactory manner. The undersigned, however, cannot consent to close this note without again expressing to Lord Palmerston the full confidence which the President of the United States feels, not only in the disposition of his Majesty's Government to do justice to these claims, but in its sincere wish to preserve the friendly relations between the two countries, and, if the efforts of the undersigned in the final and satisfactory adjustment of this interesting subject shall be crowned with success, it will give him a source of high and durable pleasure.

The undersigned eagerly avails himself of the occasion again to renew to Lord Palmerston the assurance of his most distinguished consideration.

A. STEVENSON.

Extract of a letter from Mr. Stevenson to Mr. Forsyth, dated

AUGUST 22, 1836.

As yet I have received no answer to my communication upon the subject of the shipwrecked slaves. Apart from the intrinsic difficulties which the subject itself, at the present moment, presents to the ministry, arising out of public sentiment, the dissolution of Parliament and the press of interesting affairs which continually demand the attention of the cabinet have probably contributed to delay the answer. As most of the ministers have left town for the country, nothing will be done, I presume, until they return in the fall. I shall not fail to renew the subject at a proper time, and press its decision.

Extract of a letter from Mr. Stevenson to Mr. Forsyth, dated

OCTOBER 5, 1836.

I have yet received no answer to my communication upon the subject of the shipwrecked slaves. Indeed, at this period of the year, ministers are so frequently out of town, and the opportunities of having decisions of the Government upon important questions so rare, that it is difficult to say when an answer may be expected. I shall continue, however, to urge the importance of an early and final decision, and especially before the ensuing session of Congress.

Extract of a letter from Mr. Stevenson to Mr. Forsyth, dated

NOVEMBER 19, 1836.

No answer has yet been received to my note about the shipwrecked slaves, nor can I say when one may be expected. As soon as the ministers of the cabinet return to town, I will again call the attention of the Government to the subject, and urge a decision.

Extract of a letter from Mr. Stevenson to Mr. Forsyth, dated

DECEMBER 14, 1836.

I had flattered myself with the hope of receiving, before this time, an answer to my last communication to the Government here, upon the subject of the claims of our citizens for their shipwrecked slaves. Having been disappointed in this, and seeing no prospect of any thing being done, I determined to make another effort, and accordingly addressed, yesterday, to Lord Palmerston, a note on the subject, urging the necessity of a decision, and desiring to know when one might be expected. I transmit herewith a copy of my note, by which you will see that I have pressed the subject with the earnestness and in the manner that the character of the delay and the circumstances under which it has taken place required. Indeed, after a delay of so many years in the adjustment of mere private claims, amounting almost to a denial of justice, I deemed it proper to make my note as short as I could well do, consistently with delicacy to the Government here and the self-respect due to our own. I presume I shall get an answer to this note. * * * * * Should the delay continue, and the President or yourself wish any other and stronger step to be taken, I shall expect to be advised on the subject, and the degree of urgency that I am to adopt. I pray, therefore, to be honored with your instructions.

Mr. Stevenson to Lord Palmerston.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has the honor again to call the attention of Lord Palmerston, his Majesty's principal Secretary of State for Foreign Affairs, to the several communications heretofore made to his Majesty's Government in behalf of the claims of certain citizens of the United States for injuries sustained by them in consequence of the proceedings of the British colonial authorities of the Bahamas.

By reference to these communications, it will be seen that the first of these claims was presented to the consideration of his Majesty's Government as early as February, 1832, and the last of them as far back as May, 1835, and that more than four months have elapsed since the last note which the undersigned had the honor to address to Lord Palmerston was received, to which no answer has yet been given. Having in that communication expressed to his lordship, as he was instructed to do, the disappointment and regret with which the delay, on the part of his Majesty's Government, in deciding these claims, had been regarded by the Government of the United States, and the confident expectation entertained by the President that no further delay would be suffered, but that an early decision of them would be made, the undersigned had flattered himself with the hope that he should not only before this time have been honored with an answer to his communication, but that he should have had it in his power to have communicated to his Government the gratifying intelligence of the final and satisfactory adjustment of the whole subject. Disappointed in this reasonable expectation, the undersigned feels himself constrained, as well by considerations of what is due to the claimants as a sense of duty to his Government, to make another, and, he hopes, more successful appeal to the candor and justice of his Majesty's Government. In doing so the undersigned will abstain from entering into any further discussion of the merits of these claims, or of the proceedings of the colonial authorities under which the injuries for which indemnity is asked were committed. This has been too fully and recently done, both by the undersigned and his predecessors, to render a recapitulation either necessary or proper. The undersigned will, therefore, content himself with again inviting the attention of his Majesty's Government to the subject, in a confident hope that the difficulties which have heretofore prevented an earlier decision of these claims will be removed, and a speedy adjustment of them be promptly made.

That his Majesty's Government are sincerely desirous to do impartial justice to these claims, as well as avoid, with scrupulous regard, all unnecessary delay in their settlement, the undersigned will readily admit; but, that his Majesty's Government have been fully sensible of the importance of the principles involved in them, or of the injurious consequences which have resulted from the delay in their final disposition, he must be permitted to doubt.

Of the character and consequences, however, of the protracted delay which has taken place, the undersigned will forbear to speak. Sensible as he is of the various and important matters which must necessarily demand the time and attention of his Majesty's Government, the under-

signed has supposed it not improbable that the subject of these claims may have been regarded as matters of secondary consideration, and have, consequently, been postponed for other more pressing concerns by his Majesty's Government. It is in this view that the undersigned feels himself justified in again inviting the attention of Lord Palmerston to the subject, and making another appeal to the justice of his Majesty's Government.

The undersigned, therefore, begs leave respectfully to renew to Lord Palmerston his entreaties for an early and amicable adjustment of these claims, and to request his lordship to place before his Majesty's Government the assurance that, whilst the Government of the United States would continue to regard with profound regret and increased sensibility any further delay in this matter, it yet entertains the confident expectation that his Majesty's Government, sensible of the high obligations it owes as well to itself as to the United States, will not longer consent to postpone the decision of a subject which has been for so many years under its consideration, and the effect of which can be none other than to throw not only additional impediments in the way of an adjustment and increase those feelings of dissatisfaction and irritation which have already been excited, but, by possibility, tend to disturb and weaken the kind and amicable relations which now so happily subsist between the two countries, and on the preservation of which so essentially depend the interests and happiness of both.

The pure and lofty principles which the Government of the United States never cease to cherish and practise in its intercourse with foreign nations, and its confidence in the good faith as well as justice of his Majesty's Government, forbid any apprehension that the just expectation which it has formed of an immediate and amicable adjustment of these claims by his Majesty's Government will not be promptly met and fully realized.

As the President of the United States will expect to hear from the undersigned, at an early day, upon this subject, and may wish to make known to Congress (now in session) the present state of the negotiation, the undersigned prays that Lord Palmerston will have the goodness to inform him whether his Majesty's Government have come to any decision respecting these claims, and, if not, at what time one may be expected.

The undersigned requests Lord Palmerston to accept renewed assurances of his distinguished respect and consideration.

A. STEVENSON.

23 PORTLAND PLACE, *December 13, 1836.*